

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

-----  
UNITED STATES OF AMERICA :  
v. : Criminal No. 3:09CR452  
ROBERT LEE PERNELL : May 1, 2013  
-----

**DAY TWO**

TRANSCRIPT OF JURY TRIAL TESTIMONY  
BEFORE THE HONORABLE ROBERT E. PAYNE  
UNITED STATES DISTRICT JUDGE

**APPEARANCES:**

OLIVIA L. NORMAN, Assistant United States Attorney  
Office of the U.S. Attorney  
600 E. Main Street, Suite 1800  
Richmond, Virginia 23219

Counsel for the United States

CHRISTOPHER J. COLLINS, Esquire  
304 E. Main Street  
Richmond, Virginia 23219

Counsel for the Defendant

DIANE J. DAFFRON, RPR  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT

## I N D E X

	DIRECT	CROSS	REDIRECT	RECROSS
JAMES CHAPMAN	179	190	--	--
DUSTIN WOOLSON	191	199	200	--
RALPH BURTON	201	211	--	--
ANDREW HARRIS	214	218	--	--
EDWIN JONES	219	229	--	--
DAVID CLAYTON	237	--	--	--
KELLY BARRETT	249	265	--	--
SANDRA SIMMONS	271	321	--	--
BRAD CONNER	323	338	340	--

## E X H I B I T S

Page

## GOVERNMENT'S EXHIBITS

Nos. 46A-D and 47	179
No. 1	236
Nos. 37-44	246
Nos. 773-1 through 773-8	260
No. 28	263
Nos. 31 and 32	265
No. 224-8	270
Nos. 768-12, 768-14, 768-17 & 768-18	275
All exhibits starting with 768A	278
No. 25	289

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page

GOVERNMENT'S EXHIBITS (Continued)

No. 23	297
Nos. 8 and 9	300
No. 10	300
Nos. 13, 14 and 15	306
Nos. 17 & 20	307
No. 21	309
No. 12	311
No. 45	312
No. 26	314
No. 19	318
No. 24	320
Nos. 2, 3, 4, 5, 6, 7 & 30	331
No. 48	334
No. 49	357

1 (The proceedings in this matter commenced at  
2 9:45 a.m. The jury is present.)

3

4 THE CLERK: Criminal No. 3:09CR00452-01, the  
5 United States of America vs. Robert Lee Pernell.

6 Mr. Olivia Hawkins represents the United  
7 States. Mr. Christopher J. Collins represents the  
8 defendant.

9 Are counsel ready to proceed?

10 MS. NORMAN: The United States is ready, Your  
11 Honor.

12 MR. COLLINS: Mr. Pernell is ready, Judge.

13 THE COURT: Good morning, ladies and  
14 gentlemen. We're glad to have you back today. The  
15 lawyers have worked hard to try to streamline the  
16 proceedings and they're going to continue to do that,  
17 and they've done a good job so far. So we'll see  
18 where we're heading by the end of the day.

19 All right. Your next witness, Ms. Hawkins.

20 MS. NORMAN: Thank you, Your Honor.

21 The United States' next witness is Officer  
22 Chapman. And if it pleases the Court, as we wait for  
23 Officer Chapman to enter, the United States would move  
24 to admit the exhibits that were identified yesterday  
25 by the witnesses.

CHAPMAN - DIRECT

179

1 THE COURT: 50, 51 and 52?

2 MS. NORMAN: Yes, sir. And also the  
3 photographs marked 46A, 46B, 46C, 46D and the  
4 inventory marked --

5 THE COURT: 46A through D?

6 MS. NORMAN: Yes. And the inventory marked  
7 Exhibit 47.

8 THE COURT: Any objections?

9 MR. COLLINS: No, sir.

10 THE COURT: They are all admitted.

11 (Government's Exhibits 46A-D and Exhibit 47  
12 are admitted into evidence.)  
13  
14  
15

16 JAMES CHAPMAN, called by the United States, first  
17 being duly sworn, testified as follows:  
18

19 DIRECT EXAMINATION

20 BY MS. NORMAN:

21 Q Good afternoon.

22 A Good afternoon.

23 Q Please tell the ladies and gentlemen of the jury  
24 your name and where and how you're employed.

25 A My name is Officer James Chapman. I'm with the

CHAPMAN - DIRECT

180

1 Chesterfield County Police Department.

2 Q How long have you been with the Chesterfield  
3 County Police Department?

4 A Five years now.

5 Q I want to direct your attention to May 15, 2009.  
6 Were you working in the early morning hours of May 15,  
7 2009?

8 A Yes, ma'am.

9 Q What position did you hold at that time?

10 A I was a patrol officer.

11 Q How long had you been a patrol officer?

12 A About five months.

13 Q Prior to being a patrol officer, did you have any  
14 other sort of police or military training?

15 A I was in the Army for 9 1/2 years before becoming  
16 a police officer.

17 THE COURT: Were you an MP?

18 THE WITNESS: No, sir.

19 Q But in the course of your employment with the  
20 Army, were you trained in entering buildings and  
21 trained in warfare, if you will?

22 A Yes, ma'am, trained in close quarters combat  
23 before going to Iraq for a year.

24 THE COURT: Can you pull that microphone a  
25 little bit towards you? Thanks.

CHAPMAN - DIRECT

181

1 Q So on May 15, 2009, did you have reason to go to  
2 1453 Lockett Ridge Road in Chesterfield, Virginia?

3 A Yes, ma'am.

4 Q Can you tell the ladies and gentlemen of the jury  
5 what did you find when you arrived there?

6 A We responded for a shots fired call. When we  
7 arrived on the scene at Lockett Ridge, we found Anwan  
8 Jones, who was in the front yard of his house. He  
9 said he was jumped after coming back from a bar by two  
10 gunmen and that his girlfriend was still somewhere in  
11 the house. And he did not know where the gunman was  
12 at at that time.

13 Q All right. You said you were encountered by Anwan  
14 Jones. Where approximately were you encountered by  
15 him?

16 A I believe it was in his front yard.

17 Q But it was outside?

18 A Yes, ma'am, it was outside the house.

19 Q What was his behavior at the time?

20 A Nervous, excited, scared.

21 Q Was he calmly relaying this information to you?

22 A No, ma'am. He was, I guess for lack of a better  
23 term, hysterical.

24 Q So based on what he said -- and you said "we  
25 arrived." Was there another officer with you?

CHAPMAN - DIRECT

182

1 A Yes, ma'am. Officer Woolson and myself arrived  
2 within seconds of each other.

3 Q Approximately, what time was that?

4 A I don't recall.

5 Q Was it --

6 A It was in the early morning.

7 THE COURT: How long after you got the call  
8 did you get there, do you think?

9 THE WITNESS: Five, 10 minutes, somewhere in  
10 there, sir.

11 Q All right. So you received the call and went  
12 directly there?

13 A Yes, ma'am.

14 Q All right. So tell the ladies and gentlemen,  
15 after you encountered Mr. Jones, what else did you  
16 observe as you had first arrived at the scene?

17 A As we went to enter the house to clear the  
18 building, there was a large amount of blood on the  
19 front steps and front porch leading into the house.

20 Q Did Anwan Jones appear to have been injured?

21 A No, ma'am, he did not.

22 Q What did you think when you saw the blood on  
23 the -- did it appear to be fresh or did it appear to  
24 be something dry?

25 A Oh, it was fresh.



CHAPMAN - DIRECT

183

1 Q What was the weather like at that time?

2 A Dry.

3 Q At that time?

4 A Yes, ma'am.

5 Q Tell the ladies and gentlemen of the jury how you  
6 and Officer Woolson enter the house.

7 A At the front door we announced ourselves as  
8 Chesterfield County Police, come out and be  
9 identified. We screamed this three or four times  
10 before making entry into the house.

11 As we made entry into the house, we saw more blood  
12 on the front carpet of the family room, which was  
13 directly in front of us, and to our right there was  
14 the kitchen, and you could also see blood smears on  
15 the refrigerator in the kitchen.

16 Q How did you go about clearing the house?

17 A Room to room.

18 Q Starting with the living room?

19 A We started with the -- because the way you looked  
20 in the house, the living room was fairly open. So we  
21 could clear that room without going all the way down,  
22 and there didn't appear to be any doors or anything  
23 like that. As I said, the kitchen was to our right  
24 almost immediately as we entered the house. And to  
25 the right of the kitchen was a hallway which at the

CHAPMAN - DIRECT

184

1 end you could see a bathroom.

2 Q All right. So what if anything did you notice  
3 about the kitchen? Anything in the kitchen that you  
4 noticed?

5 A Just the blood smear on the refrigerator and there  
6 was nothing else. I don't recall anything else.

7 Q Did you guys go down that hallway toward the  
8 bedroom?

9 A Yes, ma'am.

10 Q What if anything did you notice about the hallway?

11 A When we were going down, there was a laundry room  
12 on the right-hand side of the hallway, and, as I said,  
13 the bathroom was at the end with the door open, and  
14 there was a closed door to the left. The laundry room  
15 door was knocked off the hinges and because we could  
16 see to clear the bathroom without having to make  
17 entry, we made entry into the closed room that was on  
18 our left-hand side, and we found a bedroom there.

19 Q So let's go back for a brief moment. You said the  
20 closet door was knocked off the hinges?

21 A Yes, ma'am. Laundry room door.

22 Q Sorry. Laundry room door?

23 A Yes, ma'am.

24 Q Are they the type of doors that are on hinges on  
25 one side and you open the door or is it the bifold

CHAPMAN - DIRECT

185

1 kind?

2 A It's the bifold kind.

3 Q Were both of them knocked over or just one?

4 A I remember seeing one. I'm not sure about the  
5 other one.

6 Q When you entered the room that had the closed  
7 door, what if anything did you discovery in there?

8 A When we opened the door, we saw there was a  
9 knocked over trash can. There were wall mirrors on  
10 the wall, and several of those appeared to be broken,  
11 and as we were entering, we could see that there were  
12 large holes in the wall of the bedroom, and we could  
13 also hear crying coming from the closet of that  
14 bedroom.

15 Q When you say "crying," explain to the jury what  
16 kind of crying. Was it whimpering?

17 A It was whimpering and you could hear --

18 THE COURT: One at a time.

19 MS. NORMAN: I'm sorry.

20 THE WITNESS: Sorry.

21 A It was crying. I don't remember the exact type,  
22 but I do remember someone saying, "Help me. Help me."  
23 And that's when we opened the door and we found Ms.  
24 Peoples under a pile of clothes in the closet.

25 Q When you say you found her under a pile of

CHAPMAN - DIRECT

186

1 clothes, was she coming out of the clothes or was she  
2 still in the clothes when you found her?

3 A She was -- as we opened the door and we were  
4 identifying ourselves as police officers, she began to  
5 come out of the clothes. I believe that's what  
6 happened.

7 Q Then what did you do once she came out of the  
8 clothes?

9 A We asked her if -- first, we asked her if she was  
10 okay, and then we asked if the gunman was still in the  
11 house, and she told us she was not sure.

12 Q So then what if anything did you do once she said  
13 she wasn't sure if they were still in the house?

14 A We told her to wait in the closet. We would come  
15 back. And we finished clearing the rest of the house.

16 Q Did you find anybody else in the house?

17 A No, ma'am, no one else was in the house.

18 Q All right. When you went back, was she still in  
19 the closet.

20 A Yes, ma'am.

21 Q All right. Tell the ladies and gentlemen of the  
22 jury what you did when you went back to the closet.  
23 Did you retrieve her out of there?

24 A Yes, ma'am.

25 Q Did you notice anything inside the closet at that

CHAPMAN - DIRECT

187

1 point?

2 A No, ma'am.

3 Q Once you retrieved her out of the closet, what did  
4 you do with her?

5 A We brought her out of the house. At that point I  
6 lost sight of her because Sergeant Norris arrived on  
7 the scene, and I was telling him what we had at the  
8 house at that time, what the situation was.

9 Q Did you notice anything outside of the house close  
10 to the front of the house other than the blood you  
11 have already talked about?

12 A Yes, ma'am. I saw two shell casings for a .45.

13 Q Now, you're very specific. Shell casings for a  
14 .45?

15 A Yes, ma'am.

16 Q Tell the ladies and gentlemen of the jury how you  
17 know they were .45 shell casings.

18 A I have three .45's myself at the house, and that's  
19 my preferred gun that I shoot off duty. And a .45 is  
20 a pretty distinctive round. So I was able to tell  
21 right away that it was a .45.

22 Q And the casing is what part -- explain to the jury  
23 what a casing is, a shell casing is.

24 A It's the part of the bullet that holds the powder  
25 and the primer. It's what's ejected out of the gun

CHAPMAN - DIRECT

188

1 after you fire a bullet or a round, excuse me, and the  
2 bullet comes out of the muzzle and the barrel. What  
3 you have left over is the casing.

4 Q And then the casing, if you have like a pistol as  
5 opposed to a revolver, if you have a pistol, the  
6 casing gets ejected out?

7 A Yes, ma'am. If you have an automatic pistol, the  
8 round is ejected from the gun.

9 Q Once you got Ms. Peoples out, you noted those  
10 things, did you do anything else?

11 A We waited for K-9 to come. Sergeant Norris locked  
12 down the house, and we were waiting for K-9 to come,  
13 and once Richmond K-9 arrived on scene, I was tasked  
14 to go with them on a track.

15 Q While you were going on this track, did you see  
16 anything that was of note to you?

17 A Yes, ma'am. Behind the house there's a creek and  
18 there were several bushes there. And when we were  
19 walking we found I believe it was a black stocking  
20 cap, a puddle of blood, and there was an indentation  
21 where it looked like someone had fallen down in the  
22 bushes and sat for at least enough time to make an  
23 indentation.

24 Q All right. When you followed along, where did it  
25 seem like the dog just stopped?

CHAPMAN - DIRECT

189

1 A We went up -- I believe it's Pointers Chase, I  
2 believe is the name of the road.

3 Q It doesn't matter what the name of the road was,  
4 per se, but is it the road that runs sort of behind  
5 the house?

6 A It's runs parallel to the house, yes, ma'am, and  
7 you could see drops of blood on the road. And then it  
8 just stopped, and we continued to go past that road  
9 down -- I don't know the exact distance, but we went  
10 for a little bit, and at which point the dog lost the  
11 track, and we called the track because the dog lost it  
12 and it started to rain.

13 Q When you say "started to rain," was it just  
14 sprinkling sort of raining or --

15 A It started to come down fairly steady.

16 Q Once you finished with that, did you go back and  
17 speak with either Anwan Jones or Ms. Peoples at all?

18 A I did speak with Anwan Jones. I actually spoke to  
19 him prior to doing the track with Richmond just to try  
20 and get a better description of the subjects.

21 Q Was he able to give you a description of the  
22 subjects?

23 A He said two black males wearing all black, one  
24 carrying a shotgun and one another carrying another  
25 type of gun that he wasn't sure what it was.

CHAPMAN - DIRECT

190

1 Q Well, what about Ms. Peoples?

2 A I didn't talk to Ms. Peoples after getting her out  
3 of the house.

4 Q Now, by the time you got Ms. Peoples out of the  
5 house, how was she acting then?

6 A I don't remember.

7 MS. NORMAN: We have no further questions of  
8 this witness, Your Honor.

9

10 CROSS-EXAMINATION

11 BY MR. COLLINS:

12 Q Good morning, Officer Chapman.

13 A Good morning, sir.

14 Q Did you find any indication outside of the house  
15 that a shotgun had been fired?

16 A No, sir.

17 Q So Anwan Jones described one of the assailants  
18 having a shotgun and the other one some other kind of  
19 gun?

20 A Yes, sir.

21 Q Was he specific as to length?

22 A No, sir, not the other type. Just a shotgun and  
23 another type of gun.

24 Q He didn't describe the other one as a long gun or  
25 another shotgun?



CHAPMAN - CROSS

191

1 A I don't remember.

2 Q Well, would that be something you would remember?

3 A It would be if he said it was a pistol or a long  
4 gun or two shotguns, I would have remembered that, but  
5 he just said "a shotgun and another type of gun."

6 MR. COLLINS: Thank you, sir.

7 THE WITNESS: Yes, sir.

8 MS. NORMAN: We have no further questions of  
9 this witness, Your Honor, and I believe he can be  
10 excused.

11 MR. COLLINS: Yes.

12 THE COURT: Thank you very much for being  
13 with us, Officer Chapman. You're excused and free to  
14 go about your duties.

15 THE WITNESS: Thank you, sir.

16 (The witness was excused from the witness  
17 stand.)

18 MS. NORMAN: The United States' next witness  
19 is Officer Woolson.

20

21 DUSTIN WOOLSON, called by the United States,  
22 first being duly sworn, testified as follows:

23

24 DIRECT EXAMINATION

25 BY MS. NORMAN:

WOOLSON - DIRECT

192

1 Q Good morning.

2 A Good morning.

3 Q Please tell the ladies and gentlemen of the jury  
4 your name, where and how you're employed.

5 A My name is Dustin Harold Woolson. I'm a senior  
6 officer with the Chesterfield County Police  
7 Department, Chesterfield County, Virginia.

8 THE COURT: Could you spell your name,  
9 please?

10 THE WITNESS: Dustin Woolson, D-u-s-t-i-n,  
11 W-o-o-l-s-o-n.

12 Q Officer Woolson, were you so employed on May 15th  
13 of 2009?

14 A Correct.

15 Q On May 15, 2009, were you working in the early  
16 morning hours?

17 A Correct.

18 Q Were you called to respond to the house located at  
19 1453 Lockett Ridge Road in Chesterfield County?

20 A I was.

21 Q Tell the ladies and gentlemen of the jury, please,  
22 what if anything you saw when you first got there.

23 A As I pulled up to the residence, I exited my  
24 police vehicle, and I was met in the road by an  
25 individual later identified as Mr. Anwan Jones.

WOOLSON - DIRECT

193

1 Q When you say "in the road," the parking area in  
2 the front yard is right on the road in front of that  
3 house; is that correct?

4 A Correct.

5 Q There's no sort of buffer or curbing or anything.  
6 It just all goes straight into the road?

7 A Correct.

8 Q And Anwan Jones, what if anything did he tell you  
9 at that moment?

10 A Mr. Jones advised that two individuals had just  
11 broken into his house, that one of them had a firearm,  
12 and that his girlfriend, who was later identified as  
13 Ms. Keona Peoples, was still inside of the residence  
14 in a closet.

15 Q When you looked at the house, did you note  
16 anything in particular at the house at that point?

17 A First observation of the house, the front door was  
18 open. As we approached that front door, myself and  
19 another officer, I did observe some blood on the  
20 carpeting leading to the front door.

21 Q And there's sort of a pathway there, there's some  
22 wood steps at the front of the house, and then a foyer  
23 inside and some carpeting inside of that as well; is  
24 that correct?

25 A That's correct.

WOOLSON - DIRECT

194

1 Q Did you see what you believed was blood on all of  
2 those areas or just part of those areas?

3 A I recall seeing blood on the carpet and some on  
4 the steps.

5 THE COURT: The outside steps?

6 THE WITNESS: Yes, sir, the outside steps  
7 leading into the residence.

8 Q At some point did you enter the house?

9 A We did so.

10 Q What if anything did you say when you entered?

11 A We entered the house. We identified ourselves as  
12 the police.

13 Q At some point did somebody respond to your  
14 announcing?

15 A We did. We heard somebody calling us from a room  
16 down the hallway to the right of the entrance of the  
17 house.

18 Q Who was that person?

19 A We later identified that person as Ms. Keona  
20 Peoples.

21 Q Now, tell the ladies and gentlemen of the jury,  
22 and describe for us since we weren't there, what was  
23 the condition of Ms. Peoples when you encountered her.

24 A When we did find Ms. Peoples, we found her inside  
25 a closet that was located in a bedroom. We found her

WOOLSON - DIRECT

195

1 under a pile of clothing that was tucked back in the  
2 closet a little bit under some other clothing that was  
3 hanging up.

4 When we did find Ms. Peoples, she was crying. We  
5 attempted to ask her some questions, who she was, any  
6 more information we could use as we went through the  
7 house. It was difficult to get any answers out of  
8 her. She wasn't able to give coherent words. She  
9 wasn't able to make an audible sentence.

10 Q Sometimes a person might be unable to answer your  
11 questions because they just don't want to. Sometimes  
12 people might be unable to answer your question because  
13 they have a physical impairment. What if anything,  
14 based on your observations, was the cause of her  
15 having difficulty answering your questions?

16 MR. COLLINS: Objection, Judge. I don't  
17 think he's qualified to make that opinion.

18 MS. NORMAN: I asked about his observations,  
19 what if anything about her behavior.

20 THE COURT: Well, I think you can ask the  
21 question in another way and get the same information  
22 and the objection would not be valid, but that one is.  
23 Sustained.

24 BY MS. NORMAN:

25 Q If you could explain your observations of Ms.

WOOLSON - DIRECT

196

1 Peoples when you were trying to ask these questions.

2 A As I said, she was crying. It was difficult to  
3 get any information out of her. She was --

4 Q Why was it difficult for you to get the  
5 information out of her?

6 A It seemed as if she was not able to put a sentence  
7 together at the moment. She came at us very  
8 willingly. It appeared that she just wanted to exit  
9 the house and get out of the house.

10 THE COURT: She wanted to or wanted you to?

11 THE WITNESS: That she wanted to herself.

12 Q What was her physical condition? Could you tell  
13 what her physical condition was? What if anything --  
14 was she standing calmly and straight and looking at  
15 you? How was she physically acting?

16 A She was shaking. As I said, we found her, she was  
17 crouched down under a pile of clothing, and we had to  
18 remove her from that clothing. Once she was up, she  
19 did appear as if she wanted to exit the house. She  
20 was shaking.

21 Q Did you help take Ms. Peoples out of the house?

22 A At some point I did, yes.

23 Q At some point after you took her out of the house,  
24 did you speak to her about what happened?

25 A I did.

WOOLSON - DIRECT

197

1 Q Tell the ladies and gentlemen of the jury how long  
2 it was between the time you took her out of the house  
3 and you actually got a chance to talk to her,  
4 approximately.

5 A Approximately, 10 to 15 minutes.

6 Q How, if at all, did her condition change from the  
7 time she was in the house to when you tried to talk to  
8 her outside the house?

9 A The point I tried to talk to her the second time  
10 once we were out of the residence she appeared to have  
11 calmed down slightly. She was able to make coherent  
12 sentences. She was able to speak to me freely about  
13 what happened. The shaking subsided some and at some  
14 point she was able to stop crying long enough to tell  
15 me what had happened.

16 Q What did she tell you had happened?

17 A She advised me that her and her boyfriend, who she  
18 identified as Mr. Anwan Johns, they had returned home  
19 to that residence from where they were playing pool at  
20 an establishment called The Locker Room. She advised  
21 that that was on Forest Avenue in Richmond.

22 She advised that she was the first to approach the  
23 door of the house, and as she was unlocking the door,  
24 she heard Mr. Jones say, "Oh my God."

25 At that time she advised that she was forced into

WOOLSON - DIRECT

198

1 the residence by what she believed to be two subjects.

2 At that time she advised that all she could  
3 remember was two males yelling and that one of them  
4 had a long black gun.

5 Q What else did she tell you happened inside the  
6 house?

7 A She advised that she remembers a very bright light  
8 and possibly a loud bang.

9 THE COURT: A loud what?

10 THE WITNESS: Bang, sir.

11 Q What did she do, if anything? What did she say  
12 she did in response to that?

13 A In response to that, she ran into the bedroom and  
14 hid in the closet.

15 Q Did she make any statements to you about whether  
16 or not she had a firearm?

17 A She did so.

18 Q What did she say about that?

19 A She advised that once she ran into the bedroom,  
20 after she observed the individuals with the gun, she  
21 remembered grabbing a handgun that she knew Mr. Jones  
22 kept in the bedroom. She advised that she attempted  
23 to pull the trigger several times. There was no  
24 result of that.

25 She recalls pulling back the slide on top of the



WOOLSON - DIRECT

199

1 handgun and then attempting to fire again. At the  
2 time that I spoke with her, she was not sure if the  
3 firearm discharged or not.

4 Q As she was explaining these things to you, how was  
5 she physically acting?

6 A Calmer than the initial observation inside the  
7 residence. She was no longer shaking. The crying had  
8 subsided while she was telling me these things. She  
9 was able to make full sentences and she was coherent.

10 MS. NORMAN: We have no further questions of  
11 this witness.

12

13 CROSS-EXAMINATION

14 BY MR. COLLINS:

15 Q Good morning, officer.

16 A Good morning.

17 Q Once she had calmed down, did she tell you that  
18 was her gun?

19 A She did not.

20 Q Once she calmed down, is that when she told you  
21 she didn't know if she had fired any shots or not?

22 A That's correct.

23 Q This was about 10 minutes, 15 minutes after you  
24 first encountered her?

25 A Approximately, yes.

WOOLSON - CROSS

200

1 MR. COLLINS: Thank you. That's all I have.

2 THE COURT: Can he be excused?

3 MS. NORMAN: I just have -- if I can just ask  
4 a follow-up.

5 THE COURT: All right.

6

7 REDIRECT EXAMINATION

8 BY MS. NORMAN:

9 Q When she told you that she attempted to fire the  
10 firearm and then she pulled the slide back, did she  
11 say she didn't shoot or she just doesn't know?

12 A She advised that she was unsure if the weapon  
13 discharged or not.

14 MS. NORMAN: Thank you. We have no further  
15 questions and he can be excused.

16 MR. COLLINS: Yes, sir. He can go.

17 THE COURT: Thank you for being with us,  
18 Officer Woolson. You're excused to go about your  
19 business.

20 THE WITNESS: Thank you, Your Honor.

21 (The witness was excused from the witness  
22 stand.)

23 MS. NORMAN: The United States would call  
24 Detective Jody Burton.

25

1  
2 RALPH G. BURTON, called by the United States,  
3 first being duly sworn, testified as follows:  
4

5 DIRECT EXAMINATION

6 BY MS. NORMAN:

7 Q Good morning.

8 A Good morning.

9 Q Can you please tell the ladies and gentlemen of  
10 the jury your name and where and how you are employed?

11 A Career Officer Ralph G. Burton, Jr. I'm employed  
12 with the Chesterfield County Police Department  
13 currently assigned to its aviation unit.

14 Q Back on May 15, 2009, were you employed at that  
15 time with the Chesterfield County Police?

16 A I was.

17 Q What was your position then?

18 A I was a detective with the department.

19 Q Were you in a particular --

20 A Crimes against persons.

21 Q On May 15, 2009, were you called to a residence  
22 located at 1453 Lockett Ridge Road in Chesterfield  
23 County, Virginia?

24 A Yes, ma'am, I was.

25 Q What was the purpose of you being called there?

BURTON - DIRECT

202

1 A To assist with a search warrant that had been  
2 obtained for the residence as a result of a shooting  
3 incident, attempted robbery, that had occurred there.

4 Q What was your role in the search? What were  
5 you --

6 A I was assigned to search a master bedroom  
7 downstairs, which also included a closet area, and to  
8 go through and search those areas, and then notify  
9 forensics once they came in of any evidence that we  
10 observed so that they could photograph and collect  
11 that evidence.

12 Q When you say "we," was there another detective  
13 with you?

14 A There were other detectives in the room and  
15 throughout the house.

16 Q Now, in the master bedroom, did you find anything  
17 of significance in the master bedroom?

18 A I did a search of the downstairs bedroom closet  
19 that was in the master bedroom. Located some large  
20 quantities of U.S. currency that had been hidden in  
21 some of the clothing that was hanging in that closet.

22 In that same closet, I also located a black Glock  
23 handgun. It was a model 38, .45 GAP caliber. It was  
24 found in the closet floor among numerous pairs of  
25 shoes.

BURTON - DIRECT

203

1 The slide was locked to the rear on the gun and it  
2 had a magazine inserted into it, which was empty.

3 Q I want to show you what's been marked as  
4 Government's Exhibit 131. Does that look familiar?

5 A That appears to be the weapon we found in the  
6 closet, yes.

7 Q Now, I want to show you -- sorry.

8 THE COURT: 131 is a picture?

9 MS. NORMAN: Yes, sir.

10 THE COURT: So 131 is a picture of the  
11 weapon?

12 MS. NORMAN: Yes. I'm sorry.

13 THE COURT: For the record.

14 BY MS. NORMAN:

15 Q So the record is clear, I'm sorry, this is  
16 Government's Exhibit 131. And it's a photograph of a  
17 bunch of shoes and what appears to be a firearm. Is  
18 that basically how you found the item?

19 A Yes, ma'am, it is.

20 Q I want to show you what's been marked as  
21 Government's Exhibit 134. Looking at that, is that  
22 the same weapon?

23 A Yes, it is.

24 Q And we see the top piece where the writing or the  
25 stamp is that says Austria, 45 GAP, I believe. What

BURTON - DIRECT

204

1 piece of the firearm is that?

2 A That's the slide.

3 Q Now, I'm going to show you what's been marked as  
4 Government's Exhibit 768A135. What is that. Is that  
5 part of the same firearm?

6 A That is the opposite side of the slide of the  
7 firearm. What is depicted there, that notched out  
8 space, if you will, on that slide is the ejection  
9 port, and that is the extraction hook to the back of  
10 that.

11 Q Okay. If you touch that screen, it will actually  
12 make a mark on the screen. So if you can sort of draw  
13 an arrow or point to the ejection port.

14 A Here's your ejection port here.

15 Q Okay. So if you were holding the firearm, that  
16 ejection port would be on what side if you were  
17 holding it and pointing it towards something?

18 A On the right side of the firearm.

19 Q So it would be on the right side?

20 A Yes, ma'am.

21 Q What comes out of there?

22 A That's where your bullet casings would come out.  
23 Your discharged casings, once a bullet has been fired,  
24 the weapon will extract that round, that empty casing,  
25 if you will, from that area, from the ejection port.

BURTON - DIRECT

205

1 Q You noted that this was a semi-automatic weapon?

2 A It is a semi-automatic weapon, yes, ma'am.

3 Q So for us that might not understand what the  
4 difference is, what does a semi-automatic weapon --  
5 how does that work?

6 A A semi-automatic weapon will fire a number of  
7 rounds as fast as you can pull the trigger manually  
8 and for whatever magazine capacity. If you have 15  
9 rounds in the weapon, if you could pull the trigger 15  
10 times as fast as you could, you could fire those 15  
11 rounds provided that the weapon did not malfunction in  
12 some way.

13 Q When you pull the trigger, that fires the round?

14 A It does.

15 Q Each time you fire, what happens with the casing?

16 A The casing is ejected from the ejection port here  
17 where I noted on the screen. The casing comes out of  
18 this area here.

19 Q So that would be every trigger pull? Every time  
20 you pull the trigger, the casing should be flying out?

21 A Yes, ma'am.

22 Q What else did you note, if anything, in the closet  
23 that appeared to be significant to you?

24 A There were several silver 45 GAP spent cartridge  
25 casings, ones that had been fired, lying in the

BURTON - DIRECT

206

1 closet, as well as two copper-colored bullets that  
2 were found, one of which was found in a black shoe in  
3 the floor.

4 There were some other items found in that closet  
5 on the closet door. There was like an organizer, a  
6 shoe organizer, hung on that door. It had a bag of  
7 some type of crystal granules in that bag, and there  
8 were numerous items of clothing very densely packed in  
9 that closet hanging on closet rods.

10 Those items of clothes on the right side had what  
11 appeared to be a number of bullet holes through those  
12 clothes.

13 Q Through the clothes on the right side?

14 A Through the clothing, yes, ma'am.

15 Q Now, did you also -- outside of the closet in the  
16 master bedroom itself, did you note anything else on  
17 the floor of the master bedroom that caught your  
18 attention?

19 A I did. At the foot of the bed just below the  
20 baseboard, if you will, of the bed or the footboard of  
21 the bed there was a piece of carpet raised up, a  
22 fluffed up spot, if you will, and there was a plastic  
23 shotgun wad lodged down in the carpet, and there were  
24 several shotgun pellets or projectiles in the floor.  
25 You could see the wood in the floor underneath the



BURTON - DIRECT

207

1 carpet where they had gone into the floor.

2 Q You described the item as a shotgun wad?

3 A Yes, ma'am.

4 Q Can you tell us, what exactly is a shotgun wad?

5 A A shotgun wad is encased within your -- well, the  
6 shotgun bullet itself, in layman's terms, when it's  
7 loaded, it has a primer charge in the base of it.

8 Q A primer charge, so we all know, that's the gun  
9 powder, so to speak?

10 A That's the gun powder, so to speak. That would be  
11 at the bottom, which would be in the brass colored or  
12 silver colored area of the shotgun ammunition. Then  
13 in the plastic area, within that is where your shot,  
14 your projectiles or bullets, if you will, are  
15 contained within that area of the shotgun ammunition.

16 Inside of there is a plastic wadding that controls  
17 or holds the shotgun pellets in there and it also  
18 controls the flight of those shotgun pellets as they  
19 exit the muzzle of the weapon. Once it exits the  
20 muzzle of the weapon, the shotgun pellets disperse,  
21 and the shotgun wad itself falls free at some point on  
22 the ground in the flight of the bullet.

23 Q Depending on the ammunition you buy for your  
24 shotgun, it might have lots and lots of pellets or it  
25 might just have a couple of really big pellets?

BURTON - DIRECT

208

1 A It depends on the variation of your ammunition.

2 If you buy birdshot, there are lots of pellets in

3 birdshot. If you buy buckshot, there may be 9, there

4 may be 12, or there may be 15 depending on the size of

5 the shot that you buy.

6 Q The wad is just basically a piece of plastic

7 that's inside that round?

8 A Just a piece of plastic.

9 Q Okay. I want to show you what has been marked as

10 Government's Exhibit 768A-112. This appears to be the

11 foot of the bed. Is this the area you were talking

12 about?

13 A Yes, ma'am. It would be this area here appears to

14 be where the carpet is raised.

15 Q It appears, and this is a photograph of that area,

16 it appears that there is a carpet, and then like this

17 brownish, tannish-colored rug on top?

18 A Yes.

19 Q Did you raise and look in that area?

20 A I observed this area here and noted that for

21 forensics. As I recall, I think when they came in

22 there to photograph and collect anything that was

23 there, then the carpet in that area was manipulated

24 and exposed where we could see what was underneath.

25 Q So I'm going to show you what's been marked as

BURTON - DIRECT

209

1 Government's Exhibit 768A-113. Is that the area under  
2 the rug?

3 A Yes, it is.

4 Q All right. And the item, can you use the pointer  
5 or use your finger and show us where that was?

6 A The plastic shotgun wad is here. This clear  
7 plastic material there.

8 Q Okay. Now I'm going to show you what's been  
9 marked as Government's Exhibit 115. Is that a closeup  
10 of the same item?

11 A That is, yes.

12 Q And can you show us if there's any of those pellet  
13 things you were talking about?

14 A Well, there are a number of them. Some in the  
15 previous picture, but you see one here, here.

16 Q I'm going to take your markings off just for a  
17 second.

18 A Okay.

19 Q Because those areas where you just pointed to, I  
20 think you just covered them up, right?

21 A I did, actually.

22 Q So those two little round beebie looking things?

23 A Yes, ma'am. I'll try not to cover them. Here and  
24 here.

25 Q Okay. And then this grayish piece of plastic

BURTON - DIRECT

210

1 looking stuff, what is that?

2 A That appears to be the shotgun wad.

3 Q Once you guys had gone through and found all of  
4 these items of interest, did you assist forensics in  
5 trying to find any additional evidence of a shooting  
6 in the house itself?

7 A We did. We searched the remainder or the  
8 downstairs area of the house because we saw what  
9 appeared to be bullet holes that traveled in the  
10 directions of other portions of the house. And there  
11 was some sheetrock removed from a wall of the bedroom  
12 where we were searching for the bullets there. And we  
13 were searching the wall area in the kitchen and game  
14 room area of the house where we removed some sheetrock  
15 as well searching for bullet fragments. And there was  
16 one copper bullet that was found in the wall at the  
17 opposite end of the house from where the bedroom was,  
18 some distance away, I would estimate maybe 30 feet  
19 possibly, a couple of rooms away.

20 THE COURT: What kind of bullet was it?

21 THE WITNESS: It was a copper bullet or  
22 projectile that appeared to have come from a handgun.

23 THE COURT: Do you know what kind? What  
24 caliber?

25 THE WITNESS: It appeared to have been of a

BURTON - DIRECT

211

1 .40 or .45 caliber, but there were no markings on it,  
2 so I couldn't tell the Court.

3 THE COURT: That's just based on your  
4 experience.

5 THE WITNESS: Based on my he experience, it  
6 appeared to be a .40 or .45 caliber bullet due to its  
7 dimensions and size.

8 Q How did the bullet that was recovered out of the  
9 sheetrock in the game room area, how did that -- did  
10 that look at all similar to the two bullets you  
11 described for us earlier that were found in the  
12 closet?

13 A They were similar, yes. The ones that were in the  
14 closet weren't as damaged because they had appeared to  
15 have been stopped in flight due to the dense clothing  
16 within the closet. The bullet that we found in the  
17 wall was damaged somewhat because it was lodged in the  
18 wood and it traveled through several areas of the  
19 house where we found it.

20 MS. NORMAN: We have no further questions of  
21 this witness, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. COLLINS:

24 Q Good morning, Detective.

25 A Good morning, sir.

BURTON - CROSS

212

1 Q You're not saying that the gun was fired in the  
2 lower level of the house. You're saying the bullets  
3 came from the bedroom, but they ended up in different  
4 parts of the house?

5 A There was a gun found in the closet in the lower  
6 portion of the house in that closet. And there were  
7 bullet casings in the closet.

8 Q When you say "the lower level," is that where the  
9 master bedroom is?

10 A The master bedroom was on the lower level, yes,  
11 sir.

12 Q So you didn't go from the master bedroom to the  
13 lower level. It was on the lower level?

14 A The lower level master bedroom, yes, sir.

15 Q How many cartridge casings did you find in the  
16 closet of the master bedroom?

17 A There were a number of them. In excess of five as  
18 I can recall. I don't have in my notes an exact  
19 number.

20 Q Weren't you guys supposed to count those?

21 A Well, we note where they're at and have forensics  
22 come in and correct them, sir.

23 Q So somebody else collected them?

24 A Somebody else collected them.

25 Q Did you notice anywhere else in the bedroom area

BURTON - CROSS

213

1 that indicated a shotgun had been fired other than  
2 that spot in the floor?

3 A I did not.

4 Q What's the magazine capacity of that Glock?

5 A I'm unfamiliar with the magazine capacity of that  
6 particular weapon.

7 MR. COLLINS: Okay. Thank you, sir. That's  
8 all I have.

9 THE COURT: Any questions?

10 MS. NORMAN: No redirect.

11 THE COURT: Can he be excused?

12 MS. NORMAN: Yes, Your Honor.

13 MR. COLLINS: Yes.

14 THE COURT: All right, sir. Thank you for  
15 being with us and giving us your testimony. You're  
16 excused, sir.

17 THE WITNESS: Thank you, sir.

18 (The witness was excused from the witness  
19 stand.)

20 THE COURT: Next witness.

21 MS. NORMAN: The United States would call  
22 Officer Harris, Chesterfield Police Department.

23

24

25

1  
2       ANDREW HARRIS, called by the United States, first  
3 being duly sworn, testified as follows:

4  
5       DIRECT EXAMINATION

6 BY MS. NORMAN:

7 Q    Good morning.

8 A    Good morning, ma'am.

9 Q    Can you please tell the ladies and gentlemen of  
10 the jury your name and where and how you are employed?

11 A    I'm Career Officer Andrew Harris. I work for  
12 Chesterfield County Police Department.

13 Q    How long have you been with Chesterfield County?

14 A    Almost 12 years now, ma'am.

15 Q    I want to direct your attention to May 15 of 2009.  
16 Were you working with Chesterfield Police Department  
17 then?

18 A    Yes, ma'am.

19 Q    Were you actually working that day?

20 A    Yes, ma'am.

21 Q    Did you have occasion to report to the Southside  
22 Regional Medical Center in Petersburg?

23 A    Yes, ma'am.

24 Q    Can you tell the ladies and gentlemen of the jury  
25 why you went to Southside Regional Medical Center?



HARRIS - DIRECT

215

1 A Yes. One of my additional assignments is what  
2 they call a road tech. I handle some forensics  
3 evidence. I was tasked to go there to do a GSR kit.

4 Q Can you tell the ladies and gentlemen of the jury  
5 what a GSR kit is?

6 A It's a gunshot residue kit. It's used to take a  
7 swab of a person's hands or a particular area to see  
8 if there's any type of shotgun shavings, gun powder or  
9 something like that from a weapon that's been fired.

10 Q As a tech, are you the one who actually takes the  
11 kit and does the swabbing?

12 A Yes, I do the swabbing, but no additional testing  
13 comes from me. It's sent to the state lab, if needed.

14 Q The individual who is sitting at counsel table  
15 with the striped shirt, did you have occasion to take  
16 a GSR kit from him?

17 A I can't rightfully say, ma'am, because it was  
18 2009, several years back. And in my capacity, it  
19 would have been a very, very brief encounter.

20 Q When you went to the Southside Regional Medical  
21 Center, did you take the GSR kit from somebody?

22 A Yes, ma'am.

23 Q How were you able to identify who you took it  
24 from?

25 A When I went to the room, I was told that the

HARRIS - DIRECT

216

1 subject that I was there to see, which had just came  
2 in, had been shot. When I approached the subject, I  
3 remember asking him what was his name. He told me his  
4 name was Frank. Frank Williams.

5 Q The subject you took the GSR kit or the swabs from  
6 as a part of the GSR kit identified himself as Frank  
7 Williams?

8 A Yes, ma'am.

9 Q Did that individual have a gunshot wound that you  
10 saw?

11 A Yes, ma'am.

12 Q Where was that gunshot wound, if you remember?

13 A I can just vaguely remember, ma'am. I believe it  
14 was to his arm and there might have been another area,  
15 as I understand.

16 Q And you're pointing to your left arm?

17 A Yes, ma'am. I don't rightfully remember whether  
18 it was right or left. Like I said, it was a very  
19 brief encounter. In my capacity of what I do as a  
20 road tech, that many years ago, I do remember going  
21 there. I do remember doing the GSR kit. I remember  
22 the subject had a gunshot wound. I remember it was to  
23 his arm. It went through his arm, to my  
24 understanding, and it hit another portion of his body.

25 Q Once you took the GSR kit from the individual who

HARRIS - DIRECT

217

1 identified himself as Frank Williams, what did you do  
2 with the kit?

3 A The kit is placed -- it comes in the already  
4 pre-setup type of container here. It's an envelope.  
5 All you do is you take it, and you do each one  
6 separately and put it inside of a glass vial. It's  
7 then sealed with the red tape, which if it's broken,  
8 it can't be resealed. It's placed inside of our  
9 evidence bag, in which I initialed on the back, and  
10 it's placed inside of our property section, and I have  
11 no further contact with it.

12 Q That item there has a government's exhibit sticker  
13 on it, and it has been marked for identification  
14 purposes, I believe, as Government's Exhibit 1; is  
15 that correct?

16 A Yes, ma'am.

17 Q By looking at the evidence bag that contains the  
18 GSR submission envelope, is that the GSR kit you took  
19 from the man who identified himself as Frank Williams  
20 on May 15, 2009?

21 A Yes, ma'am. This is my handwriting. And also I  
22 placed it in the bag so that I could see the  
23 handwriting. That's my handwriting, ma'am.

24 MS. NORMAN: Okay.

25 THE COURT: Is that the kit you took from

HARRIS - DIRECT

218

1 Frank Williams?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right.

4 MS. NORMAN: We have no further questions of  
5 this witness, Your Honor.

6 THE COURT: Any questions?

7

8 CROSS-EXAMINATION

9 BY MR. COLLINS:

10 Q Good morning, officer.

11 A Good morning, sir.

12 Q Does it refresh your recollection at all if I  
13 suggest the bullet went through his lower arm and into  
14 his upper arm?

15 A Sir, I can't really say. Again, like I say, it's  
16 been so long ago. My encounter with the subject would  
17 have been very brief. I went there specifically for  
18 the GSR kit. I remember asking him what his name was,  
19 and when he told me his name, I make sure I write all  
20 that information down, and, again, continue on with  
21 the process of collecting the kit.

22 Q Quite frankly, I appreciate your candor. Thank  
23 you.

24 A Yes, sir.

25 MS. NORMAN: We have no further questions and

HARRIS - CROSS

219

1 he may be excused.

2 THE COURT: Thank you very much for being  
3 with us. And are you going to leave that here?

4 MS. NORMAN: Yes. We're asking that the  
5 exhibit be left here, Your Honor.

6 THE COURT: All right.

7 MS. NORMAN: We just need to present another  
8 witness.

9 (The witness was excused from the witness  
10 stand.)

11

12 EDWIN S. JONES, called by the United States,  
13 first being duly sworn, testified as follows:

14

15 DIRECT EXAMINATION

16 BY MS. NORMAN:

17 Q Good morning.

18 A Good morning, ma'am.

19 Q Can you please tell the ladies and gentlemen of  
20 the jury your name and where and how you were employed  
21 on May 15, 2009?

22 A Captain Edwin S. Jones, ID 5408, Petersburg  
23 police.

24 Q Back on May 15th of 2009, your rank was  
25 lieutenant?

E. JONES - DIRECT

220

1 A Yes, ma'am.

2 Q What sort of duties did you have as lieutenant  
3 with the Petersburg Police Department at that time?

4 A At that time I was in charge of major crimes in  
5 the investigation unit.

6 Q Now how are you employed?

7 A I am still employed by the City of Petersburg, but  
8 I've just come back from the task force, federal task  
9 force. So I'm in between.

10 Q Assignments?

11 A Yes, ma'am.

12 Q On May 15 of 2009, did you have reason to go to  
13 Southside Regional Medical Center in the morning  
14 hours?

15 A Yes, ma'am.

16 Q Can you tell the ladies and gentlemen of the jury  
17 why did you go to Southside Regional Medical Center?

18 A Yes, ma'am. On the date and time in question,  
19 5-19-2009, being in charge of the investigation unit  
20 in the City of Petersburg, I was summonsed by phone to  
21 respond in reference to a shooting in our city.

22 I was the on-call detective. So I came out and I  
23 responded at 0720.

24 Q Just for those of us who don't use military time,  
25 that's 7:20 in the morning?

E. JONES - DIRECT

221

1 A 7:20 a.m.

2 Q Okay.

3 A I responded to Southside Regional in reference to  
4 a gunshot wound. When I got there -- I normally will  
5 wait a couple of minutes to observe what's going on  
6 before I go in there. And at that time I observed a  
7 male, a black male, in the trauma room, and they were  
8 working on him. I always talk to the doctor first to  
9 find out if I can talk to the person that's shot.

10 When I spoke to him he identified himself to me as  
11 Mr. Frank Williams.

12 Q When you spoke to who?

13 A The defendant.

14 Q So was the defendant, the man in the striped shirt  
15 who sits here today, was that the man who was in the  
16 hospital with the gunshot wound?

17 A Yes, ma'am.

18 Q The defendant told you he was who?

19 A He gave me the name of Mr. Frank Williams.

20 Q Did he tell you anything else about how he had  
21 received a gunshot wound to his arm?

22 A Yes, ma'am. At the time, during the course of the  
23 investigation, I treated it as a gunshot in the city.

24 Q Why did you do that? Why did you treat it as a  
25 gunshot in the city?

E. JONES - DIRECT

222

1 A Because he claimed that he was shot in the  
2 hospitality district of the city, which is mainly  
3 where the hotels are in the east end of the city.

4 Q When you say "he," are you referring to the  
5 defendant?

6 A Yes, ma'am.

7 Q Okay.

8 A Being that I was trying to ascertain what had  
9 happened for him being shot, I observed a gunshot  
10 wound to the left side of his arm. It went through  
11 his forearm, went through his bicep and lodged in his  
12 shoulder. It was a single gunshot wound.

13 I then found out that -- he told me he was with a  
14 girl, and he didn't know why someone would do this to  
15 him. I pressed the issue in reference to a  
16 description to find out if I could get a description  
17 from him. And his words to me, and he was in a great  
18 deal of pain, but he was alert, he told me that, "I  
19 can't help you put somebody in jail. I just can't do  
20 that with all due respect."

21 And so at that point I asked him, I'm going to  
22 find out -- I'm going to check around and find out if  
23 we had any gunshot wounds or gunshot incidents  
24 anywhere in the tri cities. And at that point I found  
25 out that Chesterfield had an incident.



E. JONES - DIRECT

223

1 I said okay. I didn't advise him of that. But I  
2 had that in the back of my mind. I went ahead and  
3 left out of the room because he wouldn't tell me  
4 anything else.

5 Q When he told you what his name was --

6 A Frank Williams.

7 Q -- and said it was Frank Williams, did you ask for  
8 any further identifiers?

9 A Yes, ma'am, I asked him for his DOB.

10 Q For those of us that don't use acronyms, what is  
11 DOB?

12 A I asked him for his date of birth, ma'am. and I  
13 asked him for his Social. He gave me a couple of  
14 dates of birth that did not match. They were  
15 different. He couldn't remember his Social Security  
16 number. I said, Have you been to any doctor, any type  
17 of dentist? Have you been anywhere to receive medical  
18 treatment? He said no. And he was evasive on my  
19 questions on that.

20 I then left the hospital, and I advised the  
21 hospital personnel, Advise me if anybody comes in and  
22 inquires about this man, because he wasn't going to  
23 leave the hospital because he had to have surgery for  
24 his shoulder.

25 Around 1:30, which is 1330 hours --

E. JONES - DIRECT

224

1 Q That same day, May 15?

2 A That same day. I received information from the  
3 hospital. Upon me acting on that information, and  
4 that information was a female had come in and inquired  
5 about a person that had been shot. They normally will  
6 gather the information to run them through a system  
7 that will tell you if you are at any hospital or if  
8 you have been shipped to MCV for advance treatment.  
9 That information was gathered, relayed to me.

10 I then took that information. I ran it through  
11 NCIC and VCIN, which is the system that we run people  
12 that are wanted through, nationally and locally,  
13 through the state.

14 That then came up under that name wanted seven  
15 times, robbery related, out of the city of Richmond.  
16 RPD also had put an alert on there, "armed and  
17 dangerous."

18 MR. COLLINS: Objection, Judge. I don't  
19 think he can testify to the previous record.

20 MS. NORMAN: It's not a previous record. It  
21 was what information he received. And it's not  
22 offered for the truth of the matter but just for what  
23 steps he took next.

24 THE COURT: Why is that relevant?

25 MS. NORMAN: Because so far the testimony has

E. JONES - DIRECT

225

1 been that the defendant identified himself as Frank  
2 Williams. And so what this detective did to find out  
3 what his true identity was is relevant to being able  
4 to identify that this was the defendant who was in the  
5 hospital with the gunshot wound at that time.

6 THE COURT: Well, I haven't heard any  
7 connection yet.

8 MS. NORMAN: That's where the questions are  
9 leading.

10 THE COURT: Whose NCIC record did you run?  
11 Frank Williams?

12 THE WITNESS: No, sir. I received  
13 information of Robert Pernell with a date of birth of  
14 7-28-70.

15 THE COURT: Where did you get that?

16 THE WITNESS: I got that from the hospital,  
17 sir.

18 Q But you got the information based on --

19 THE COURT: Excuse me. So the objection is  
20 he can't testify to what the record was?

21 MR. COLLINS: Yes.

22 THE COURT: Why can't he just say he ran a  
23 record and that he found that? And what it was  
24 doesn't make any difference at this stage, not for  
25 identity, does it?

E. JONES - DIRECT

226

1 MS. NORMAN: No.

2 THE COURT: Ladies and gentlemen, disregard  
3 the testimony about what the record was. Just don't  
4 pay any attention to that. But the fact that Captain  
5 Jones ran the record is pertinent and what he found is  
6 pertinent to identifying and linking the person Frank  
7 Williams with the name Robert Pernell that he was  
8 looking for if you make that connection in the next  
9 question.

10 MS. NORMAN: That's what --

11 THE COURT: All right. Let me hear it.  
12 Otherwise, I'm going to strike the whole thing.

13 MS. NORMAN: Yes, sir.

14 Q Based on the information you had received from the  
15 hospital, did you get a photograph of the person named  
16 Robert Pernell?

17 A Yes, ma'am, out of DMV fox tips.

18 Q When you received that photograph, did you look at  
19 it?

20 A Yes, ma'am.

21 Q Did you recognize the person in the photograph?

22 A Yes, ma'am.

23 Q Who did you recognize the person in the photograph  
24 to be?

25 A As the same person I had interviewed in reference

E. JONES - DIRECT

227

1 to being a victim of a shooting earlier that morning.

2 THE COURT: You mean the person who told you  
3 he was Frank Williams?

4 THE WITNESS: Yes, sir.

5 Q Is that the defendant who sits here today?

6 A Yes, ma'am.

7 Q So the defendant, who is here, provided the name  
8 Frank Williams. You did some research, came up with a  
9 picture of Robert Pernell, and that's who you were  
10 able to positively identify the defendant as?

11 A Yes, ma'am.

12 Q Once you identified or made a positive identity of  
13 the defendant at the hospital, did you go back and  
14 attempt to talk to him again?

15 A Yes, ma'am. First I contacted Chesterfield  
16 because they had a case. And then around 1:45 that  
17 day I arrived back at the hospital. And after  
18 contacting Chesterfield, a Detective Clayton  
19 responded. I advised him of my findings.

20 We went to pull a surveillance tape from the  
21 hospital to find out who the female was and if she was  
22 still there. She had left the area by the time we had  
23 got there.

24 And I then went up to his room to confront him  
25 with this information. By that time, Detective

E. JONES - DIRECT

228

1 Clayton, Detective Brad Conners of Chesterfield, and a  
2 Detective Coats of Richmond had come down. Richmond  
3 had brought the warrants to me, the outstanding  
4 warrants, and I was going to serve them.

5 Q Just so we understand, the hospital is located in  
6 Petersburg; is that correct?

7 A Yes, ma'am.

8 Q And you're a Petersburg law enforcement officer?

9 A Yes, ma'am.

10 Q So that's your jurisdiction; is that correct?

11 A Yes, ma'am.

12 Q Did you further investigate at that point whether  
13 there had actually been any reports of shots fired in  
14 the city of Petersburg in the early morning hours of  
15 May 15, 2009?

16 A Yes, ma'am, I did, and there had been no reported  
17 shots fired. No units had responded. No one had  
18 called in anything.

19 MS. NORMAN: Thank you.

20 We have no further questions of this witness,  
21 Your Honor.

22 THE COURT: Mr. Collins.

23 MR. COLLINS: Thank you, Judge.

24

25 CROSS-EXAMINATION

1 BY MR. COLLINS:

2 Q Captain Jones, how long have you been a police  
3 officer?

4 A Twenty-seven years and three months.

5 Q In that 27 years, has any other suspect or person  
6 of interest ever lied to you about their name?

7 A Oh, yes, sir.

8 Q It happens fairly frequently, doesn't it?

9 A More times than I want to admit to, yes.

10 MR. COLLINS: Thank you. That's all I have.

11 THE COURT: Can he be excused?

12 MS. NORMAN: Absolutely, Your Honor.

13 MR. COLLINS: Judge, I would like to  
14 approach.

15 THE COURT: Can he be excused?

16 MR. COLLINS: Yes, sir. I'm sorry.

17 THE COURT: All right. Captain Jones, you  
18 can be excused. Thank you for being with us and  
19 giving us your testimony.

20 THE WITNESS: Yes, sir.

21 (The witness was excused from the witness  
22 stand.)

23 THE COURT: What did you say?

24 MR. COLLINS: I would like to have a side  
25 bar, if I may.

E. JONES - CROSS

230

1 THE COURT: All right.

2 Ladies and gentlemen, we don't do this a lot,  
3 but sometimes this saves times. So we're going to  
4 turn on the white noise again, and I'll listen to the  
5 lawyers up here.

6 All right.

7 (The following sidebar conference begins:)

8 MR. COLLINS: Judge, this is an officer with  
9 20 years experience. He knows darn well that you  
10 can't mention other crimes that are not involved in  
11 this one. In this particular case, the crime that he  
12 mentioned, I think intentionally, is the magic word in  
13 the case. I don't know how the jury gets out of their  
14 mind that now there was some other charge out there  
15 for robbery. I'm going to ask for a mistrial.

16 MS. NORMAN: First of all, as far as the  
17 questioning goes, we were not trying to elicit that.

18 THE COURT: That isn't what he said.

19 MS. NORMAN: I just want to make sure that  
20 that's clear.

21 MR. COLLINS: I didn't blame her. She  
22 wouldn't do that.

23 MS. NORMAN: As far as the information that  
24 was relayed was that he was a wanted person, but  
25 wanted simply means that there is an allegation.



E. JONES - CROSS

231

1 There's an allegation in this case as well. There's  
2 an indictment in this case. And there's a very  
3 specific instruction. And I think that it would be  
4 appropriate to instruct the jury with regard to his  
5 testimony specifically that a charge is nothing more  
6 than an allegation. And we're not presenting his  
7 conviction. And we're not presenting any evidence on  
8 that other than the stipulation. And there's not even  
9 any ties to that, any specific ties to that.

10 So I think it is corrected to the extent that  
11 saying that somebody has an allegation against him is  
12 prejudicial, I think that it can be corrected by the  
13 instruction that, remember, it's an allegation. He's  
14 presumed innocent and he is innocent until proven  
15 otherwise.

16 MR. COLLINS: Yeah, but they're going to  
17 think there's yet another allegation that he did a  
18 robbery, and he was convicted of something less than  
19 that because it wasn't a robbery. I don't know how  
20 you get that out of their head.

21 THE COURT: He didn't testify to convictions.

22 MS. NORMAN: No, allegation.

23 THE COURT: He just said what the report  
24 showed as a charge, I believe, is what he was saying.  
25 But in any event, the word "robbery" was mentioned,

E. JONES - CROSS

232

1 and I don't know if he said more than one, but I think  
2 he said one.

3 MR. COLLINS: I think he did.

4 THE COURT: And the question is, is that a  
5 prejudice that cannot be eliminated with a limiting  
6 instruction. And your view is that it is, and your  
7 view is that it cannot; is that right?

8 MR. COLLINS: Yes.

9 MS. NORMAN: Yes.

10 THE COURT: Is that where we are?

11 MR. COLLINS: Yes.

12 THE COURT: All right. Well, I'm not  
13 convinced that the witness gave the testimony  
14 deliberately with that intent. I think a man with  
15 that experience probably should have known better, but  
16 by the same token, everybody makes mistakes, and he  
17 did.

18 I think I can correct it with a limiting  
19 instruction, and it is the obligation of the Court to  
20 declare a mistrial but not to do so unless there's a  
21 manifest necessity for terminating the proceedings or  
22 the interest of justice would otherwise be defeated.

23 I think I have to consider whether giving of  
24 a curative instruction or a less drastic alternative  
25 is appropriate, and I think it is in this case.

E. JONES - CROSS

233

1 Do you want me to give another instruction at  
2 this time or do you want to wait until the end?

3 MR. COLLINS: I think wait until the end,  
4 Judge.

5 THE COURT: Okay.

6 MR. COLLINS: And I would note exception,  
7 respectfully.

8 MS. NORMAN: I was going to say that making  
9 the instruction now I think would just highlight  
10 something that probably doesn't need highlighting, but  
11 it does need curing at the time of the rest of the  
12 instructions.

13 THE COURT: I'm going to give an instruction  
14 that says that the witness testified to what the  
15 content of the NCIC report was, and that whatever he  
16 was talking about was merely what was in the report,  
17 and it is not probative of anything at all, and that  
18 the evidence was stricken and to absolutely disregard  
19 it.

20 MR. COLLINS: And that there was never any  
21 conviction of that charge.

22 THE COURT: And that there was no conviction.  
23 It's just an allegation.

24 All right. Without waiving your objection to  
25 your mistrial, is that an adequate instruction given

E. JONES - CROSS

234

1 that you don't think one ought to be given, and you  
2 can't solve it that way anyway?

3 MR. COLLINS: Given all those things, that's  
4 adequate, yes.

5 (The sidebar conference is ended.)

6 THE COURT: All right. Where do you stand?

7 MS. NORMAN: The United States would call  
8 Detective Clayton.

9 THE COURT: Is that going to be an extensive  
10 witness?

11 MS. NORMAN: He'll be a little bit longer  
12 than Lieutenant Jones was. Just a little bit.

13 THE COURT: Well, I think we'll take the  
14 morning recess at this time.

15 Ladies and gentlemen, we'll take a 20-minute  
16 recess at that time.

17 Detective Clayton, if you'll just wait. We  
18 are going to take a recess and then call you.

19 THE WITNESS: Yes, sir.

20 (The jury is out at 10:50 a.m.)

21 THE COURT: For planning purposes, how many  
22 more witnesses do you anticipate calling and how long  
23 do you think your other witnesses will be total?

24 MS. NORMAN: This witness, Detective Clayton,  
25 should take just a little bit longer than Lieutenant

E. JONES - CROSS

235

1 Jones did.

2 THE COURT: And that was 20 minutes or so.

3 MS. NORMAN: The witness after that should  
4 take about 10 minutes. Then we have the forensic  
5 investigator who has to --

6 THE COURT: That takes a couple hours or an  
7 hour or what?

8 MS. NORMAN: That's probably going to take an  
9 hour for the government to put on that evidence.

10 THE COURT: All right.

11 MS. NORMAN: And then our last witness should  
12 take about maybe 30 minutes.

13 THE COURT: Okay. I have I obligated some  
14 time ago to host a table at the annual law day  
15 luncheon, and I'm going to leave here at 12:15 and be  
16 back here no later than 1:30. I won't stay for the  
17 whole luncheon, but that will be the plan so I won't  
18 have to change that. You ought to be able to get all  
19 your evidence in.

20 MS. NORMAN: Yes. Hopefully, yes. If you're  
21 leaving at 12:15, we'll be able to get everything  
22 except --

23 THE COURT: You won't be able to get it in  
24 before I leave.

25 MS. NORMAN: Right. But we'll be able to get

1 the other ones out of the way and we'll come back and  
2 do forensics and the last one.

3 THE COURT: At this time do you still plan no  
4 witnesses, Mr. Collins?

5 MR. COLLINS: At this time, yes.

6 THE COURT: Thank you very much. We'll be in  
7 recess.

8 (Recess taken.)

9 THE COURT: Next witness.

10 MS. NORMAN: The United States calls  
11 Detective Clayton.

12 Your Honor, as we're waiting for Detective  
13 Clayton, the United States would move to admit  
14 Government's Exhibit 1, which was the primer residue  
15 kit introduced by Detective Harris.

16 THE COURT: Any objection?

17 MR. COLLINS: No, sir.

18 THE COURT: It's admitted.

19 (Government's Exhibit No. 1 is admitted into  
20 evidence.)

21 THE COURT: Are 131 and 134 already in and  
22 135?

23 MS. NORMAN: No, sir, not yet.

24 THE CLERK: I don't have them in, Your Honor.  
25

1           DAVID CLAYTON, called by the United States, first  
2 being duly sworn, testified as follows:

3

4           DIRECT EXAMINATION

5 BY MS. NORMAN:

6 Q     Good morning.

7 A     Good morning.

8 Q     Can you please tell the ladies and gentlemen of  
9 the jury your name and where and how you're employed?

10 A     I'm Detective David Clayton. I'm employed by the  
11 Chesterfield County Police Department.

12 Q     How long have you been with Chesterfield County?

13 A     Nine years.

14 Q     What was your assignment May 15, 2009? How were  
15 you assigned?

16 A     I was assigned as a detective to the general  
17 persons section in the Criminal Investigations  
18 Division.

19 Q     On May 15th of 2009, did you have occasion to  
20 respond to the Southside Regional Medical Center  
21 located in Petersburg, Virginia?

22 A     Yes, ma'am, I did.

23 Q     What was the purpose of you responding there?

24 A     I was called by the on-duty sergeant to respond to  
25 the hospital because they had an individual that was

CLAYTON - DIRECT

238

1 being treated for a gunshot wound.

2 Q When you got there, did you meet up with anybody?

3 A It was Detective Ash and Officer Neville were  
4 already on the scene when I got there.

5 Q Were there any Petersburg personnel present?

6 A There were a couple of Petersburg officers. I  
7 don't recall their names. And Lieutenant Jones also  
8 arrived at the hospital.

9 Q Upon your arrival to the hospital, did you at any  
10 point go see the person who was complaining of the  
11 gunshot wound?

12 A Yes, ma'am. Myself and Lieutenant Jones went in  
13 to try and figure out where he'd been shot.

14 Q Where the individual had been shot?

15 A Yeah, geographically, not on his body.

16 Q That was going to be my next question.

17 Do you recognize the person that you went and saw  
18 in the courtroom today?

19 A He's seated to the left of defense counsel.

20 MS. NORMAN: Just for the record, that would  
21 be the defendant, Robert Pernell.

22 Q Were you able to identify the person with the name  
23 Robert Pernell at some point that morning?

24 A I wasn't at first. It was -- we had an original  
25 conversation where Mr. Pernell chose not to tell us



CLAYTON - DIRECT

239

1 anything about who he was. Then later on we received  
2 some information about a person named Robert Pernell  
3 being treated at the hospital.

4 Q Then at some point you left the hospital?

5 A Yes, ma'am.

6 Q And then returned back again to the hospital; is  
7 that correct?

8 A Correct.

9 Q When you returned back to the hospital, who did  
10 you go back to the hospital with?

11 A It was myself, Detective Conner and Lieutenant  
12 Jones, again, from Petersburg.

13 Q Were you one of the individuals who observed the  
14 camera footage to figure out who had allegedly come to  
15 visit Mr. Pernell?

16 A Correct. The information I'd received was that a  
17 female who'd came in asking for Robert Pernell had  
18 told the staff that he should be at the hospital being  
19 treated for a gunshot wound. I went into the security  
20 office and we reviewed the footage, and we could see  
21 the female coming in to the information desk and tried  
22 to follow her back outside with the cameras, but the  
23 camera wasn't pointed in the right direction. So I  
24 don't know where she went after she left the hospital.

25 Q At some point -- you said you had tried at first

CLAYTON - DIRECT

240

1 to interview Mr. Pernell and tried to figure out where  
2 geographically he was located when he was shot.

3 A Correct.

4 Q Did you go back and try to interview him a second  
5 time about that?

6 A Once we had received the information about his  
7 correct name, and I reviewed some pictures that were  
8 taken of him that morning and a picture in our  
9 database of Robert Pernell with the information I had  
10 been given and could see they were the same person,  
11 then when myself and Detective Conner and Lieutenant  
12 Jones went back, we again tried to interview him about  
13 what had happened.

14 Q At that time did Mr. Pernell make any statements  
15 with regard to the shooting that you-all were  
16 investigating in Chesterfield?

17 A He didn't make any direct statements other than we  
18 told him we knew that he had been involved in the  
19 shooting, and his only statement to us was he didn't  
20 try to kill two people that day.

21 Q And that's the only statement he made at that  
22 point?

23 A Correct. He didn't make any other statements  
24 while we discussed with him at that time about the  
25 shooting and his involvement.

CLAYTON - DIRECT

241

1 Q After that and some other just general  
2 investigation, you-all left the hospital, I gather?

3 A Correct.

4 Q On or about May 20 of 2009, so about five days  
5 later, did you return to the hospital this time also  
6 with Detective Conner and with a search warrant?

7 A That's correct. It was for a buccal swab.

8 Q Can you tell the ladies and gentlemen of the jury  
9 what exactly is a buccal swab?

10 A A buccal swab is basically two Q-tips. We use  
11 them to collect DNA evidence, and it's to be compared  
12 to items that we send to the state lab for DNA  
13 analysis.

14 Q How, for instance, would you use the two Q-tips to  
15 take a buccal swab?

16 A They are placed in the person's mouth and rubbed  
17 around on their cheeks, and then they're placed into a  
18 cardboard box and sealed up.

19 Q And those buccal swabs you rub on the inside of  
20 the cheeks, not the outside, correct?

21 A Correct, inside the mouth.

22 Q And then when you submit those to the lab, they  
23 use that as a comparison?

24 A Correct.

25 Q Who did you take the buccal swab from that day,

CLAYTON - DIRECT

242

1 May 20th of 2009?

2 A From the defendant, Mr. Pernell.

3 Q All right. Did you put those buccal swabs into  
4 the property room into evidence in the Chesterfield  
5 Police Department?

6 A Yes, ma'am.

7 Q That item was listed as Item 33 in the evidence  
8 room; is that correct?

9 A That's correct.

10 Q All right. Also on or around that same time  
11 period, you also went and collected some evidence from  
12 Petersburg Police Department; is that correct?

13 A That's correct.

14 Q What day was that?

15 A It was the 26th of May, 2009.

16 Q On that day, can you tell the ladies and gentlemen  
17 of the jury what you went and collected from  
18 Petersburg and what you did with it?

19 A There were several items of clothing that had been  
20 collected from Mr. Pernell on the day of -- the  
21 original day that he went to the hospital for  
22 treatment. And Petersburg had originally collected  
23 them because Southside Regional is in Petersburg. And  
24 at the time they were collected we weren't sure  
25 exactly for certain where Mr. Pernell had been shot,

CLAYTON - DIRECT

243

1 where his juries had occurred. So we made the  
2 decision to have Petersburg collect the items.

3 Q Then when you went and collected the items, what  
4 if anything did you do with them?

5 A I collected them from Petersburg, and I took them  
6 directly to our police property where they were placed  
7 into -- taken as is and placed into new packaging with  
8 the original packaging, and then I sealed them, and  
9 signed them, and filled out our paperwork, and they  
10 were placed into our property.

11 Q I'm going to show you what's been marked as  
12 Government's Exhibits 37, 38, 39, 40, 41, 42, 43, and  
13 44. Are those the items in front of you there?

14 A Yes, ma'am.

15 Q All right. Let's start with Exhibit 37. What's  
16 been marked as Government's Exhibit 37?

17 A Government's Exhibit 37 is listed as a pair of  
18 black tennis shoes. Left side has shards of mirror  
19 glass embedded in the foam around the top.

20 Q That's Item 37 right there in front of you?

21 A Yes, ma'am.

22 Q Describe the packaging for us. Is that how you  
23 packaged it?

24 A Yes, ma'am.

25 Q How are you able to tell whether or not that's

CLAYTON - DIRECT

244

1 been opened?

2 A The tape is our standard evidence tape, and it has  
3 my initials across the tape.

4 Q In order to get the bag open, you either have to  
5 cut the tape or cut the bag itself?

6 A That's correct.

7 Q Has it been cut since your initials were placed on  
8 there?

9 A No, ma'am.

10 Q Can we go ahead and open Government's Exhibit 37,  
11 please, carefully.

12 When you opened that bag, for the record, there's  
13 another bag inside of it, correct?

14 A Correct. This was the bag that it was packaged in  
15 in Petersburg and I opened it to verify the contents  
16 when I received it.

17 Q When you received it, it was still sealed?

18 A That's correct.

19 Q If we could go ahead and open that and see what's  
20 inside.

21 MS. NORMAN: Your Honor, may I just approach  
22 the witness stand very briefly?

23 Q Now, Exhibit 37 appears to be a pair of black  
24 athletic shoes of some sort. The shoe, the left shoe,  
25 does it have any contents in it?

CLAYTON - DIRECT

245

1 A It has what appears to be glass, reflective glass,  
2 mirrored glass, and it's stuck -- it's hard to show,  
3 but it's stuck right inside the foam on the top of the  
4 shoe.

5 MS. NORMAN: Your Honor, the United States  
6 would move to admit Government's Exhibit 37.

7 MR. COLLINS: No objection.

8 THE COURT: Is there any objection to the  
9 chain of custody on 38 through 44?

10 MR. COLLINS: No, none of those. And I'll  
11 stipulate that they have all been handled properly.

12 THE COURT: All right. Is there any  
13 objection to them?

14 MS. NORMAN: No objections to their  
15 admission?

16 MR. COLLINS: No.

17 MS. NORMAN: Your Honor, then we would move  
18 to admit Government's Exhibit 38, which is a pair of  
19 pants; Government's Exhibit 39, which is a shirt;  
20 Government's Exhibit 40, which is a shirt;  
21 Government's Exhibit 41, which is a black mask;  
22 Exhibit 42, which is boxers; Government's Exhibit 43,  
23 which is a T-shirt; and Government's Exhibit 44, which  
24 is another T-shirt.

25 THE COURT: They are admitted without

CLAYTON - DIRECT

246

1 objection.

2 (Government's Exhibits 37 through 44 are  
3 admitted into evidence.)

4 MS. NORMAN: Now, instead of going through  
5 them and opening each one -- and, Your Honor, we can  
6 have the detective open each one and present the  
7 evidence as is or we can just open them and allow the  
8 jury to look at them now that they have been admitted  
9 when they go back for their deliberations.

10 THE COURT: It's up to you-all and what you  
11 want to do.

12 Mr. Collins, do you care?

13 MR. COLLINS: No.

14 BY MS. NORMAN:

15 Q So you checked each one of these items; is that  
16 correct?

17 A Yes, ma'am.

18 Q Before you repackaged them?

19 A That's correct.

20 Q Do you recall what color the pants are?

21 A No, I don't recall off the top of my head.

22 Q Do you recall that any of the items were bright  
23 colored or anything like that? Do you remember any of  
24 that?

25 A No, ma'am.



CLAYTON - DIRECT

247

1 Q Can you open each of the bags, please, and just  
2 take the items out so we can see them one at a time  
3 starting with Government's Exhibit 38?

4 MR. COLLINS: I will stipulate to all the  
5 clothing.

6 MS. NORMAN: If he stipulates they are all  
7 dark clothes except for the undershirt, which is not,  
8 then he doesn't need to do that.

9 THE COURT: It's stipulated that all of them  
10 are dark clothes.

11 MS. NORMAN: Except for the undershirt.

12 THE COURT: There are two T-shirts, 43 and  
13 44. Which one isn't?

14 MS. NORMAN: I know one of them is white.  
15 One moment, Your Honor, and I can tell you.

16 Your Honor, may we see Government's Exhibit  
17 47, please?

18 THE COURT: 47?

19 MS. NORMAN: Yes.

20 THE COURT: That's the inventory. Mr. Neal,  
21 do you have that?

22 Do you have Government's Exhibit 47 over  
23 there, Mr. Langford? That's the inventory. It's in a  
24 plastic sleeve.

25 MR. LANGFORD: Yes.

CLAYTON - DIRECT

248

1 MS. NORMAN: May I see that, please?

2 THE COURT: Would it be quicker to have him  
3 look at 43 and 44 and see which one is light and which  
4 one is not?

5 MS. NORMAN: Yes, sir.

6 THE COURT: Do that, please. Would you look  
7 at 43 first and see?

8 THE WITNESS: Yes, Your Honor.

9 Item 43 is a white sleeveless T-shirt.

10 THE COURT: Item 44 is what?

11 THE WITNESS: Item 44 is a black  
12 short-sleeved T-shirt, size XXXL.

13 THE COURT: All right. Now, we've gotten it  
14 straightened out.

15 MS. NORMAN: Thank you.

16 We have no further question.

17 THE COURT: Any questions?

18 MR. COLLINS: I have no questions of this  
19 witness.

20 Thank you, detective.

21 THE COURT: Can he be excused and leave the  
22 evidence here?

23 MS. NORMAN: Yes, please.

24 THE COURT: All right.

25 MS. NORMAN: The government's next witness is

1 going to be forensic investigator Barrett.

2 THE COURT: All right.

3 Thank you, Detective Clayton. You're excused  
4 to go about your business.

5 THE WITNESS: Thank you, sir.

6 (The witness was excused from the witness  
7 stand.)

8

9 KELLY BARRETT, called by the United States, first  
10 being duly sworn, testified as follows:

11

12 DIRECT EXAMINATION

13 BY MS. NORMAN:

14 Q Good morning.

15 A Hello.

16 Q Can you please tell the ladies and gentlemen of  
17 the jury your name and where and how you are employed?

18 A I'm Kelly Barrett. I'm a forensic investigator  
19 for Chesterfield County Police Department.

20 Q How long have you been a forensic investigator for  
21 Chesterfield Police Department?

22 A It will be eight years next week.

23 THE COURT: Can you pull that microphone  
24 closer to you?

25 THE WITNESS: Is that better?

BARRETT - DIRECT

250

1 THE COURT: Yes.

2 A little closer.

3 Q As a forensic investigator, what are your  
4 responsibilities?

5 A I process crime scenes by documenting them,  
6 photographing them. I write reports. I do forensic  
7 training for our police personnel and sometimes some  
8 outside agencies like St. Mary's. I'll do photography  
9 classes for them.

10 Q On May 15 of 2009, were you working that night?

11 A I was on call that week. Our unit has one  
12 investigator on call all night every week. So I had  
13 that week that particular month.

14 Q On May 15 of 2009, were you called out to assist  
15 in a matter?

16 A Yes, ma'am.

17 Q Can you tell the ladies and gentlemen of the jury  
18 what were you called out to assist in?

19 A Our dispatcher called my cellphone and just  
20 advised me that I would be en route to a shooting on  
21 Lockett Ridge. So I got myself together and left my  
22 house.

23 Q Do you recall approximately what time you received  
24 the call?

25 A It was probably between 2 and 3 o'clock.

BARRETT - DIRECT

251

1 Q In the morning?

2 A Yes.

3 Q Now, when you were driving to the scene of 1453  
4 Lockett Ridge Road, what was the weather like?

5 A I live a fair distance away, and it started  
6 pouring down when I left my house. So it took me a  
7 little bit longer than it would have if it wasn't  
8 raining so hard.

9 Q As a forensic investigator, did the rain concern  
10 you at all?

11 A Yes. I knew it was a shooting, so naturally, most  
12 likely, it wouldn't have all been indoors, and I was  
13 right by that account. When I arrived it was still  
14 raining intermittently.

15 Q By the time you had gotten there?

16 A Yes.

17 Q Once you arrived there, were there other police  
18 personnel already on the scene?

19 A Yes, ma'am.

20 Q Were other people doing things?

21 A Yes. We train some of our road units, our  
22 officers, in forensics so they can do the basics for  
23 us until we can arrive. And in this case, we had an  
24 officer there who was assigned to start collecting any  
25 exterior evidence that would have been damaged from

BARRETT - DIRECT

252

1 the rain.

2 Q Would that include -- what did that include in  
3 this case?

4 A I know for him, when I arrive, he immediately  
5 comes to me and briefs me on the forensic situation.  
6 And for him, he had to get there and collect blood  
7 because the rain showers were washing the exterior  
8 blood away.

9 Q I'm going to show you what has been marked as  
10 Government's Exhibit 224-8.

11 A Okay.

12 THE COURT: Is it a picture?

13 MS. NORMAN: It's a picture.

14 Q This is a photograph. Do you recognize that  
15 photograph?

16 A Yes.

17 Q Can you tell the ladies and gentlemen of the jury  
18 what is that a photograph of?

19 A That's the front stoop of the residence, 1453  
20 Lockett Ridge. So the front stoop of the house. And  
21 I see blood splatter on the stairs and some latex  
22 gloves.

23 Q Now, when you were traveling from a distance, it  
24 was raining as you were getting there; is that  
25 correct?

BARRETT - DIRECT

253

1 A It was raining from when I left my house  
2 throughout my travel to Lockett Ridge.

3 Q Had the rain really started at Lockett Ridge at  
4 that point?

5 A This photograph I don't see rain in. So I  
6 wouldn't have taken out my camera and tried to shoot a  
7 picture in a downpour. But when I had arrived, the  
8 officer had already collected the blood evidence that  
9 he needed to because of the rain.

10 Q Now, I want to direct your attention to what has  
11 been marked as Government's Exhibit 773-1. Did you  
12 take this photograph?

13 A Yes.

14 Q What does this photograph depict?

15 A When I arrive on the scene, I like to get a photo  
16 of the address. That's the mailbox at the end of  
17 the -- where the yard meets the road of 1453. So it's  
18 just kind of a marker to show that that's the house  
19 that I would be processing.

20 Q We see a car parked behind the mailbox in this  
21 picture. Were those police vehicles or were those  
22 vehicles that were there when you arrived?

23 A That vehicle, I don't believe that's a police  
24 vehicle.

25 Q The black one that we see?

BARRETT - DIRECT

254

1 A Correct.

2 Q All right. Is that the parking area for the  
3 house?

4 A I think it is. I believe so. And then the crime  
5 scene tape wraps behind that vehicle. So that's part  
6 of the scene, so yes.

7 Q I'm going to show you what's been marked as  
8 Government's Exhibit 773-2. What is that?

9 A That's the exterior of the house, the front of the  
10 house. I'm standing right outside the police tape  
11 shooting my picture towards the front.

12 Q Now, that picture, it appears that it's kind of  
13 light. Were you adding light to it or is it naturally  
14 that light?

15 A I have an exterior flash. So I think in that  
16 picture the flash was up.

17 Q That's actually adding some light to the scene?

18 A Yes.

19 Q Okay. Now, I want to take direct your attention  
20 to Government's Exhibit 773-3. What is this?

21 A That's the exterior. That one actually looks like  
22 it has the flash added to it. The prior picture, I  
23 think, might have just been -- I'm sorry. I just  
24 turned the monitor off. Excuse me.

25 Q Now, when we look in this picture, we see the



BARRETT - DIRECT

255

1 walkway?

2 A Uh-huh.

3 Q At the bottom of the picture it appears a  
4 different color than the middle segment and then it  
5 gets dark again. What is that?

6 A That would just be the light, the effect of the  
7 light. It only travels so far. Now, you have the  
8 house, the exterior of the house, is a light color.  
9 When you shoot a picture at night the light color of  
10 the house kind of reflects some of the lighting. So  
11 if the house were brick, it would have been very dark  
12 and absorbed most of my light.

13 Q Now, when you look at this picture, the forensic  
14 work that you did at the house, was it inside the  
15 house, outside the house or other --

16 A Outside. When I arrived, we were told that we  
17 were not searching the interior of the home or we had  
18 not gained access to the interior. I couldn't go in  
19 and do anything at the time.

20 Q So you could look around the outside, but you-all  
21 were denied consent to go inside?

22 A Correct.

23 Q So looking at this picture, can you tell the  
24 ladies and gentlemen of the jury generally if you  
25 found anything of forensic value to you?

BARRETT - DIRECT

256

1 A Yes. As I had said a little earlier, when I  
2 arrived the officer who started the forensic work came  
3 over and briefed me. And you can see the steps. I  
4 guess we'll call them steps. They are kind of  
5 stepping stones that lead up to the front door.

6 He advised that the area of my concentration would  
7 be right there. That's where he started. That there  
8 was blood on the stoop steps that he had collected.

9 I was advised that there was other evidence  
10 outside. They had been kind of looking around. That  
11 there was a shell case up in the front. I walked up  
12 there. I looked around and I observed a shell case  
13 sitting off to the side in the grass. There wasn't  
14 much grass, but you can kind of see the area in this  
15 picture off to the left of the porch if you're facing  
16 it.

17 Q So if you will, and you have to be gentle when you  
18 do this, but if you will just touch the screen in the  
19 approximate area where you found the shell case. And  
20 you just touch it and it will leave a mark.

21 A Like right around here.

22 Q So that's the approximate area there?

23 A Yes.

24 Q When we look at the house, we can get a general  
25 idea?

BARRETT - DIRECT

257

1 A Yes, just off the step stones.

2 Q Now, I'm going to direct your attention to what's  
3 been marked as Government's Exhibit 773-5. Before we  
4 get to that, what is the significance of the number  
5 773?

6 A That's my unit number. When I collect evidence, I  
7 write "773" on it. It helps me with my report. It  
8 helps me keep everything organized. And I do markers  
9 in my photographs so I can go back and say, This is a  
10 picture of my item 773-1, or the second piece of  
11 evidence I'd pick up would be 773-2, and it would go  
12 on and on.

13 Q So it goes sequentially based on when you pick it  
14 up?

15 A Yes.

16 Q The first piece of evidence you pick up is 1, the  
17 second is 2, etc.?

18 A That's the way that I do it, yes.

19 Q The same with the photographs. They are in the  
20 order, basically, in the order that you took them?

21 A Yes, they should be.

22 Q All right. So your No. 773 is on each of the  
23 photographs you took?

24 A Yes.

25 Q So going to what's been marked as Government's

BARRETT - DIRECT

258

1 Exhibit 773-5, this is a closer area, can you tell us  
2 as we look at this picture of the Exhibit 773-5, point  
3 us, if you will, to what forensic interest there is in  
4 this picture.

5 A When I'm photographing the scene, I want you to be  
6 able to see the evidence in its natural setting  
7 because if I shot a picture of it only closeup, you'd  
8 only see this tiny little area.

9 So I'm standing on the step stones probably about  
10 10 feet back from my piece of evidence.

11 Should I touch the screen to show you?

12 Q You can make a circle around it if you want to.

13 A Right there. I have -- it looks like trash. It's  
14 just a piece of paper. And on that paper it's  
15 actually a marker that I use, and I've written on it  
16 "773-1" because that's where my evidence is.

17 So I want to show you in this photograph where the  
18 evidence is in relation to the space that we're  
19 standing in. So you can see the stoop and the step  
20 stones.

21 Q Now, I'm going to show you what's been marked as  
22 773-6. Tell us what that is.

23 A That is a little bit closer to the same marker  
24 marking the evidence of where I found my 773-1.

25 Q Okay.

BARRETT - DIRECT

259

1 THE COURT: That white piece is your marker?

2 THE WITNESS: Yes, sir, right there.

3 MS. NORMAN: And if we can zoom in on the  
4 marker, please.

5 Q So that's your marker. And that's like a little  
6 black arrow on your marker?

7 A Yes. I'm pointing in the direction of the  
8 evidence. I don't want to touch the evidence with the  
9 marker. I just want to show you where it is.

10 Q Now, I want to show you what's been marked as  
11 Government's Exhibit 773-8. Is that just a different  
12 view of the same thing?

13 A Yes, it looks like I would have moved a couple of  
14 blades of grass out of the way so you can see my  
15 entire marker with my item number, 773-1. And to the  
16 left it says, "Chesterfield County Police." And  
17 underneath it, that's the complaint number for this  
18 case. They issue you a complaint number every time  
19 you go per case. So it documents right above the  
20 arrow my evidence, that shell case.

21 Q Finally, I'm going to show you what's been marked  
22 Government's Exhibit 773-7.

23 A That's one. That's the same one.

24 Q What is that?

25 A I had removed the shell case from the grassy area

BARRETT - DIRECT

260

1 of the yard. And I actually just stepped to the  
2 right. This is one of those stepping stones. I set  
3 the shell case down and I put my scale right above it.  
4 It's a little ruler. And then underneath that's the  
5 same label that I used to show it in the yard. And I  
6 just shot a closeup photo of it.

7 MS. NORMAN: Now, Your Honor, at this time  
8 the United States would move to admit Government's  
9 Exhibits 773-1 --

10 MR. COLLINS: No objection.

11 MS. NORMAN: -- through 773-8.

12 MR. COLLINS: No objection.

13 THE COURT: They are admitted.

14 (Government's Exhibits No. 773-1 - 773-8 are  
15 admitted into evidence.)

16 BY MS. NORMAN:

17 Q Now, I believe you have a package in front of you  
18 that's marked Government's Exhibit 28.

19 A Yes.

20 Q Now, can you --

21 THE COURT: Is somebody going to tell us what  
22 caliber shell that is?

23 MS. NORMAN: Yes, sir.

24 THE COURT: Okay.

25 Q The package that's been marked Government's

BARRETT - DIRECT

261

1 Exhibit 28, do you recognize that?

2 A I do.

3 Q Tell the ladies and gentlemen of the jury what  
4 that is.

5 A This is what we have the photograph up of. It's  
6 my 773-1, the shell case I removed from the front  
7 yard. And on it I've written my complaint number. It  
8 all corresponds to the marker in my photograph.  
9 Shooting, my name, 773-1, and then a description on  
10 the envelope. I have, "One .45 auto Winchester  
11 cartridge case."

12 Then I have an additional label that's put on it  
13 with the detective's name, the complaint number, and  
14 the description, one .45 auto Winchester cartridge  
15 case. And it all corresponds with the photo.

16 Q Now, A lot of times when you guys go out to a  
17 scene, there might be more than one forensic  
18 investigator; is that correct?

19 A Yes.

20 Q In fact, in this case they were several?

21 A Yes.

22 Q So you sequentially number the evidence that you  
23 recovered?

24 A Yes.

25 Q So when you submit it to evidence at the police

BARRETT - DIRECT

262

1 department, do they just continue to use your number  
2 or do they give it a new number?

3 A They give it their own number for their computer  
4 cataloging system.

5 Q So if two different forensic investigators collect  
6 evidence at a scene, you might have 1 through 50 and  
7 the other investigator has 1 through 50. When it goes  
8 to the evidence room, it becomes 1 through 100?

9 A Yes.

10 Q So what is the evidence number that was attributed  
11 to your item 773-1?

12 A Number 28.

13 Q And, coincidentally, it's also marked Government's  
14 Exhibit 28; is that right?

15 A That's correct.

16 Q It's evidence item 28 as well as Government's  
17 Exhibit 28?

18 A Yes, it is.

19 Q Can you open that up and let us see what that is?

20 A Sure. Do you just want me to hold it up?

21 Q If you can hold it up.

22 What kind of metal does that appear to be?

23 A It's copper, I think. It's a cartridge case.

24 It's the same one in the photo, but if you look at my  
25 photo, the flash kind of lights up the stamp on it.



BARRETT - DIRECT

263

1 Q Okay. And if we look at the photo, which is  
2 marked Government's Exhibit 773-7, with the light, we  
3 can see the indentation stamp on the bottom of that;  
4 is that correct?

5 A Yes, 773-1. And you can see the stamp. The stamp  
6 is the marking. It says "Winchester .45 auto." It  
7 kind of wraps around. That's what they call the  
8 stamp. The head stamp of it.

9 MS. NORMAN: Your Honor, at this time the  
10 United States would move to admit Government's Exhibit  
11 28?

12 THE COURT: Any objection?

13 MR. COLLINS: No objection.

14 THE COURT: It's admitted.

15 (Government's Exhibit No. 28 is admitted into  
16 evidence.)

17 Q Finally, I want to direct your attention to two  
18 other packets marked for identification as  
19 Government's Exhibits 31 and 32. Do you have those in  
20 front of you?

21 A I do.

22 Q Can you tell the ladies and gentlemen of the jury  
23 what Government's Exhibits 31 and 32 are?

24 A 31 is a GSR kit, a gunshot residue kit, of Keona  
25 Peoples.

BARRETT - DIRECT

264

1 Q What is Government's Exhibit 32?

2 A 32 is a GSR kit of Anwan Jones.

3 Q Did you take those GSR kits?

4 A After I finished processing the scene, a detective  
5 requested that I take GSRs for them. So I went ahead  
6 and did them.

7 Q Did you do them there at the scene?

8 A Yes.

9 Q At 1453 Lockett Ridge?

10 A Yes.

11 Q The persons that you took these from, they  
12 identified themselves as Anwan Jones.

13 A Yes.

14 Q And then Keona Peoples?

15 A Yes. There's an information packet that goes with  
16 them. So I fill out that information. And they give  
17 me their name and birth date.

18 Q So when you submitted those, did you submit those  
19 to the evidence room, too, to property?

20 A Yes.

21 Q What item number did the evidence room give those?

22 A They gave them, let's see, Keona Peoples, her GSR  
23 kit is No. 31, and Anwan Jones' GSR kit is No. 32.

24 MS. NORMAN: Your Honor, at this time we are  
25 not going to ask the investigator to open those, but

BARRETT - DIRECT

265

1 we're going to move to admit those.

2 THE COURT: Any objections?

3 MR. COLLINS: No, sir.

4 THE COURT: They are admitted.

5 MS. NORMAN: And they are Government's

6 Exhibits 31 and 32 for the record.

7 (Government's Exhibits 31 and 32 are admitted  
8 into evidence.)

9 MS. NORMAN: And we have no further questions  
10 of this witness.

11 THE COURT: All right.

12 Any questions, Mr. Collins?

13 MR. COLLINS: Very briefly, Judge.

14

15 CROSS-EXAMINATION

16 BY MR. COLLINS:

17 Q Good afternoon, Ms. Barrett.

18 We heard Officer Chapman testify earlier. He was  
19 at the scene before you, correct?

20 A Yes, sir.

21 Q And he is pretty adamant that he saw two cartridge  
22 casings. You're pretty adamant that you saw one,  
23 correct?

24 A Yes.

25 Q Any explanation for that?

BARRETT - CROSS

266

1 A Well, my photo shows the one that I saw, and if  
2 you look back, you don't see two in them. So I know I  
3 saw one.

4 Q So it will forever remain one of life's great  
5 mysteries, huh?

6 A I could speculate to different things.

7 MR. COLLINS: Thank you, ma'am.

8 MS. NORMAN: One quick follow-up.

9

10 REDIRECT EXAMINATION

11 BY MS. NORMAN:

12 Q Ms. Barrett, there were other items laying on the  
13 ground around there; is that correct?

14 A Yes.

15 Q In fact, if we go back to Government's Exhibit  
16 773-5, this was a picture you took before you actually  
17 picked up and collected that cartridge case; is that  
18 correct?

19 A Yes.

20 Q And there are other items there are laying around  
21 there. Did you check those items to make sure they  
22 were not cartridge cases?

23 A In every scene, you'll have non-evidentiary items.  
24 So those are things that are of no value to me  
25 evidence-wise. For instance, if you look in this

BARRETT - REDIRECT

267

1 photo -- when I arrive, and to show you what I see, I  
2 take that picture. So I'm standing there and you can  
3 look just like I was. You'll see the boot tread, like  
4 a wet boot tread on one of the stepping stones kind of  
5 close to my marker.

6 Q You can use your finger and just show us.

7 A Right here on the fifth stone from the porch  
8 there's a boot tread.

9 Q I'm going to erase your mark just so that now  
10 people see where to look so they can see it without  
11 the mark. Okay?

12 A Okay. Then if you look up on the entire stoop,  
13 which you really don't need me to draw, but you'll see  
14 all these dark spots, water, blood, kind of mixed. Do  
15 you see the darker colors on the stones and the steps?  
16 So you can see that in my picture.

17 Now, you can also see some little like lighter  
18 colored items, like right here you see something  
19 white.

20 Q Okay. Now that we have that highlighted, can you  
21 enlarge that area? Then I will take the highlight  
22 off.

23 All right. So that's the enlargement of that  
24 area. What was that?

25 A If you look really close to this right here, that

1 looks like the filter tip of a cigar, like the plastic  
2 part. You can see the thin end and then the thicker  
3 end of it. And then you can see other little light  
4 colored items. Those are little pieces of leaves.

5 Q Those are all items that without the benefit of  
6 your light -- how do they compare in size to the  
7 cartridge case?

8 A They look very similar in size.

9 Q You have the benefit of your light from your  
10 camera and from your flash?

11 A When I'm standing there, it's not raining right at  
12 that moment. You can see the wetness on the treads.  
13 It had been raining. So I'm shooting the picture in  
14 much better conditions than when the officer started  
15 processing the scene.

16 Q So your whole purpose is to go and find what in  
17 all these little various pieces that we see in this  
18 photograph, all these little various pieces of stuff,  
19 if there's actually something of evidentiary value in  
20 there?

21 A Yes, that's my function, my complete function  
22 there.

23 Q Later somebody said or you read that somebody said  
24 that they saw two?

25 A Right.

1 Q But you only saw the one?

2 A Correct. I would have collected -- if I saw two  
3 there, I would have collected them.

4 Q And that was it. That was your whole area, and  
5 you searched that, and that's what you found?

6 A That's where the event occurred. You can see with  
7 the blood. And the brief -- they only briefed me on  
8 what has occurred. That enables me to be able to  
9 actually look. That's my skill set to be able to look  
10 for the evidence. So I get a brief. There was a  
11 shooting. There's blood. Obviously, somebody bled at  
12 some point on this steps, and I was advised that there  
13 was something, a shell case, in the yard.

14 Q As you said, you weren't allowed to go into the  
15 house because there was no consent from the owners at  
16 that time?

17 A Yes, correct.

18 Q Were you involved in going in later?

19 A No, I wasn't. It was a very minimal time frame  
20 for me here.

21 MS. NORMAN: We have nothing further, Your  
22 Honor.

23 THE COURT: All right. Can she be excused  
24 permanently?

25 MS. NORMAN: Yes, except that I think she's

BARRETT - REDIRECT

270

1 got a lot of the other evidence or is carting back and  
2 forth the other evidence. So I don't think she'll be  
3 leaving us, but she can be excused.

4 THE COURT: Well, I don't want to let  
5 somebody go that's got evidence if we're going to need  
6 them. So please stay around in case we need you.

7 THE WITNESS: Yes, sir.

8 (The witness was excused from the witness  
9 stand.)

10 THE COURT: Next witness.

11 MS. NORMAN: Your Honor, before we get to the  
12 next witness, the United States does want to make sure  
13 I move to admit the photographs marked as Government's  
14 Exhibits 773-1 through 773-8.

15 THE COURT: You already did that.

16 MS. NORMAN: Okay. I just want to make sure  
17 I moved to admit those.

18 THE COURT: We don't have 224-8.

19 MS. NORMAN: And we would move to admit  
20 224-8.

21 THE COURT: Any objection?

22 MR. COLLINS: No, sir.

23 (Government's Exhibit No. 224-8 is admitted  
24 into evidence.)

25 MS. NORMAN: Your Honor, the government's



1 next witness is the forensic investigator that  
2 processed the inside of the house, and we believe that  
3 she will probably take some time.

4 THE COURT: I'm sure she will. Let's get  
5 started. I have a previous obligation. Today is Law  
6 Day and I'm obligated to do something with the  
7 Richmond Bar Association at Law Day. I will leave  
8 here at 12:15, and we'll resume at 1:30, and so that  
9 will be your lunch hour today. We're going to try to  
10 get some testimony in before 12:15.

11 We can get the identification information,  
12 and a lot of more basic things in, and then we'll  
13 stop.

14 MS. NORMAN: Yes, sir.

15  
16  
17 SANDRA SIMMONS, called by the United States, first  
18 being duly sworn, testified as follows:

19  
20 DIRECT EXAMINATION

21 BY MS. NORMAN:

22 Q Good afternoon.

23 A Good afternoon.

24 Q Can you please tell the ladies and gentlemen of  
25 the jury your name and where and how you're employed?

SIMMONS - DIRECT

272

1 A My name is Sandra Parrish Simmons. I'm a forensic  
2 investigator with Chesterfield County Police.

3 Q Now, how long have you been with Chesterfield  
4 County Police?

5 A It will be 15 years in October.

6 Q Have you served your entire time with Chesterfield  
7 Police Department as a forensic investigator?

8 A Yes, ma'am.

9 Q Now, I want to direct your attention to May 15 of  
10 2009 in the morning hours. Were you called to respond  
11 to the Southside Regional Medical Center in  
12 Petersburg?

13 A Yes, ma'am.

14 Q Why were you called out there?

15 A I was called to photograph injuries on a male that  
16 was at the hospital.

17 Q All right. Did you in fact find the individual  
18 and photograph him?

19 A Yes, ma'am.

20 Q I want to show you what has been marked as  
21 Government's Exhibit 768-12. And let me ask you,  
22 what's your unit number?

23 A My unit number at Chesterfield is Unit 768.

24 Q So if there's a photograph that's marked 768-12,  
25 that's a photograph you took?

SIMMONS - DIRECT

273

1 A Yes, ma'am.

2 Q Is this a photograph that you took at the hospital  
3 that day?

4 A Yes, ma'am, it is.

5 Q Please tell the ladies and gentlemen of the jury  
6 what's the significance of this picture?

7 A The individual I took photos of had what appeared  
8 to be bullet holes in his arm, in his left arm, and in  
9 his left shoulder area, left upper arm.

10 Q So does this accurately depict what you saw there  
11 at the hospital that day?

12 A Yes, ma'am.

13 Q I'm going to show you now what's been marked as  
14 768-14. Is that the individual you took the picture  
15 of?

16 A Yes, ma'am, it is.

17 Q At that time had the individual identified  
18 himself?

19 A I don't remember if he had or not.

20 Q Do you recognize the individual you took the  
21 pictures of today?

22 A I've never met the individual before other than  
23 taking photographs. It appears to be the same  
24 individual.

25 Q Okay. Now I'm going to show you a picture that's

SIMMONS - DIRECT

274

1 been marked Government's Exhibit 768-17. What's this  
2 a picture of and what was the significance?

3 A It's a tattoo that's on his back.

4 Q I see that you have your ruler there. Did you put  
5 the ruler there for a reason?

6 A Yes, I did. Just for scale purposes, just to show  
7 the scale, give you an idea a little bit of how the  
8 size of the tattoo is.

9 Q There's a little item that appears to be not a  
10 tattoo located there. Can you highlight that?

11 Was that of any significance to you when you saw  
12 that?

13 A I wasn't sure what that was, but I took a close-up  
14 of whatever that was.

15 Q Okay. Did it appear to be an organic or a  
16 nonorganic object?

17 A It appeared something was there, but I couldn't  
18 tell what it was. So just took a close-up of it.

19 Q I'm going to show you one more picture marked  
20 768-18. Is that just a broader shot of the same  
21 thing?

22 A Yes, ma'am.

23 MS. NORMAN: Your Honor, at this time the  
24 United States would move to admit photo Exhibit  
25 768-12, -14, -17, and -18.

SIMMONS - DIRECT

275

1 MR. COLLINS: Judge, I'm not sure what the  
2 relevance of 17 and 18 is, but otherwise I have no  
3 objection.

4 THE COURT: What's the relevance of 17?

5 MS. NORMAN: We had testimony earlier today,  
6 Your Honor, from an officer that indicated that they  
7 followed a track into the woods and found an area  
8 where there was blood, and the vegetation had been  
9 compressed or had been -- appeared that somebody had  
10 fallen and had been there long enough to leave an  
11 impression in the vegetation.

12 THE COURT: This is pictures of tattoos. How  
13 does that show anything?

14 MS. NORMAN: That's why I was highlighting  
15 the item, Your Honor, in 768.

16 THE COURT: Are you talking about the green  
17 thing on the left?

18 MS. NORMAN: Yes, Your Honor.

19 THE COURT: You're offering it as probative  
20 of being vegetative matter?

21 MS. NORMAN: Yes.

22 THE COURT: All right. Objection overruled.  
23 It's admitted. So all of them are.

24 (Government's Exhibits Nos. 768-12, 768-14,  
25 768-17 and 768-18 are admitted into evidence.)

SIMMONS - DIRECT

276

1 Q Now, when you finished taking the pictures at the  
2 hospital, did you do anything else there?

3 A After I took the photographs, I was told that I  
4 needed to respond to an address I believe on Lockett  
5 Ridge Road.

6 Q Did you proceed from the hospital over to Lockett  
7 Ridge at that time?

8 A Yes, ma'am.

9 Q Now, I'm going to go through a number of  
10 photographs, and I want to show you, these are the  
11 actual physical photographs that have been marked.  
12 There's the notebook right there. They are the  
13 physical photographs that have been printed and  
14 actually marked with the government exhibit sticker.

15 A Okay.

16 Q Can you just glance through those quickly and see  
17 if you can identify if those are your photos that you  
18 took at 1453 Lockett Ridge Road on May 15, 2009?

19 THE COURT: What exhibits are you talking  
20 about now?

21 MS. NORMAN: These are all of the photographs  
22 that the government has been referring to as  
23 Government's Exhibit 768A dash and then all the series  
24 of numbers after that.

25 THE COURT: All of the 768A numbers?

SIMMONS - DIRECT

277

1 MS. NORMAN: Yes, sir. But, Your Honor, only  
2 the ones listed in the government's proposed exhibit  
3 list.

4 THE COURT: How is anybody ever going to know  
5 what those are?

6 MS. NORMAN: For counsel's purpose, and for  
7 the Court's purpose, and for the record's purpose,  
8 it's not every photograph that the forensic  
9 investigator took. It's just the ones that we have  
10 listed in the Government's exhibit list. And the  
11 Court had asked us --

12 THE COURT: So all you're asking her to  
13 identify is the ones that are on the list?

14 MS. NORMAN: Yes.

15 THE COURT: Okay. That's fine. Maybe I  
16 misunderstood what you were saying.

17 There are others that she took that are not  
18 being used as exhibits.

19 MS. NORMAN: That's correct.

20 A Yes, ma'am.

21 Q And those are all photographs -- and the question  
22 I asked and I think you just answered, those are all  
23 the photographs or what's been presented to you are  
24 photographs that you took depicting what you observed  
25 at 1453 Lockett Ridge Road on May 15, 2009?

SIMMONS - DIRECT

278

1 A Yes, ma'am.

2 MS. NORMAN: And, Your Honor, there was no  
3 objection by defense earlier, but just for the record  
4 at this time the United States would move to admit  
5 photographs that have been marked as Government's  
6 Exhibits 768A and with the numbers following on the  
7 Government's exhibit list rather than just read every  
8 number on the list.

9 MR. COLLINS: It is still correct that I  
10 don't object to any of the photographs.

11 THE COURT: Okay. So I gather there are  
12 omitted numbers; is that right?

13 MS. NORMAN: Yes.

14 THE COURT: All right. They are admitted.

15 BY MS. NORMAN:

16 (All Government's Exhibits starting with 768A  
17 are admitted into evidence at this time.)

18 Q Now, can you tell before we get into the very  
19 specifics --

20 THE COURT: I think it's 12:15 and I need to  
21 go ahead and leave.

22 We'll excuse the jury for lunch. If you'll  
23 take your pads with you, ladies and gentlemen, and you  
24 can go ahead and have lunch, and we'll resume at 1:30.

25 (The jury is out at 12:15 p.m.)



SIMMONS - DIRECT

279

1 THE COURT: All right. We will be in recess.

2 (Luncheon recess at 12:15 p.m. to 1:35 p.m.)

3 THE COURT: All right. We'll resume with the  
4 testimony of Forensic Investigator Simmons.

5 I remind you, you're under the same oath  
6 which you took earlier today.

7 THE WITNESS: Yes, sir.

8 MS. NORMAN: Thank you, Your Honor.

9 BY MS. NORMAN: (Continuing)

10 Q Now, when we left off I think I was about to ask  
11 you when you went into the house at 1453 Lockett  
12 Ridge, did you do any sort of diagram of the house?

13 A Yes, ma'am, I did.

14 Q I want to show you what has been marked as  
15 Government's Exhibit 10. Tell us if you recognize  
16 that.

17 A Yes, ma'am, I do.

18 Q What is that?

19 A That's a rough sketch of the downstairs of the  
20 residence on Lockett Ridge.

21 Q Did you do that?

22 A Yes, ma'am, I did.

23 Q It's not to scale, though, is it?

24 A No, ma'am.

25 Q All right. On your screen is that, in essence,

SIMMONS - DIRECT

280

1 the document there?

2 A Yes, ma'am, it is.

3 Q All right. Now, is that the layout of the house  
4 as you walk in? Can you just kind of orient us a  
5 little bit about that?

6 A Yes, ma'am. You go up a couple of stairs here and  
7 this is the front door right here. You come in. This  
8 is the living room area. And then over to your right,  
9 this is the kitchen. You walk through here. This is  
10 a hallway over here. There's a laundry area here.  
11 Straight back is a bathroom. And this room back here  
12 is what appeared to be a master bedroom.

13 Q We're going to leave that up for a little while so  
14 you can show us like where on that. And I'm going to  
15 take your marks off now so that as we talk about  
16 things, you can mark it.

17 A Okay.

18 Q And also we're going to kind of go back and forth  
19 because I'm going to show you some pictures as well.  
20 Starting with what has been marked as Government's  
21 Exhibit 768A-14, just tell us generally what that is.

22 A That is the front of the residence.

23 Q That's during the daylight hours now; is that  
24 correct?

25 A Yes, ma'am, it is.

SIMMONS - DIRECT

281

1 Q Approximately, what time did you arrive at this  
2 residence on May 15?

3 A I believe it was around 10:09 in the morning.

4 Q When you arrived there at 10:09, does this picture  
5 accurately depict what you saw?

6 A Yes, ma'am, it is.

7 Q Anything about what you see on these steps that  
8 had any forensic value to you?

9 A The steps had what appeared to be either blood or  
10 red stains on them.

11 Q Did you notice, did that stain, was it just  
12 isolated to that area or were there other areas where  
13 it was?

14 A There was also red stains inside the residence.

15 Q I'm going to show you what's been admitted as  
16 Government's Exhibit 768A-25. Tell us what this is.

17 A That's as you're coming through the front door.  
18 That's the foyer area.

19 Q And we see sort of a linoleum or a tile area right  
20 there at the doorway. What is the significance of  
21 that area there?

22 A It had what happened to be either red staining or  
23 blood.

24 Q All right. From your observations of the stairs  
25 leading into the house and also this area, did it

SIMMONS - DIRECT

282

1 appear to be sort of a trail?

2 A Yes.

3 Q Now, I'm going to show you what's been admitted as  
4 Government's Exhibit 768A-26. What is that a picture  
5 of?

6 A That's another view as you're coming through the  
7 front door, but you're looking straight into the  
8 living room area.

9 Q Prior to you coming in and taking these pictures,  
10 had the house been secured?

11 A Yes, patrol officers had already secured the  
12 residence.

13 Q So people weren't allowed to come in and out any  
14 longer?

15 A That's correct.

16 Q And then you-all obtained a search warrant to be  
17 able to do this?

18 A Yes, ma'am.

19 Q At the bottom right-hand corner I'm going to  
20 circle an item. I'll put the arrow there. What is  
21 that right above to the right of the arrow?

22 A It appears to be a set of keys.

23 Q And those keys were not law enforcement's keys,  
24 were they?

25 A No, they were not.

SIMMONS - DIRECT

283

1 Q So those were just there when you got there and  
2 started taking your pictures?

3 A Yes, ma'am.

4 Q And then also when we look at this picture, if we  
5 looked farther up right toward that area, what is  
6 that, if anything, on the carpet itself?

7 A I believe those are red stains. Looks similar to  
8 the red stains in the doorway and coming up the steps  
9 into the residence.

10 Q Now, when you first go into the house, did you --  
11 tell the jury, what is the first thing that you do  
12 when you come into the house?

13 A You mean as far as documenting, taking  
14 photographs?

15 Q Yes, in general. Do you just take photographs of  
16 everything or do you start in one room and just do  
17 that room? What's your procedure?

18 A It depends, but basically I come in and I'll take  
19 overalls of each room, take overall photos of each  
20 room, and look for anything that might potentially be  
21 evidence that's obviously out in front of me.

22 Q Once you've done the overview, do you then go back  
23 and photograph more specific items that are of  
24 interest to you as a forensic investigator?

25 A Yes, ma'am. Then I'll take what we call mid-range

SIMMONS - DIRECT

284

1 photos. Then eventually I'll take closer up photos.

2 Q So that you've got basically an overall view of a  
3 particular area?

4 A Right.

5 Q You move in a little bit more so you can see it  
6 better, whatever item that is of interest to you, and  
7 then you might also take a much closer shot of that?

8 A Yes, ma'am.

9 Q Okay. So with that in mind, let's start looking  
10 now at what's been admitted as Government's Exhibit  
11 768A-27. What is this area here and what if anything  
12 of significance did you note here?

13 A Okay. This is still the front door kind of pushed  
14 back, but if you're coming in and you go to your  
15 right, this is the kitchen area.

16 Q And this wall that we see, the open doorway kind  
17 of thing between what appears to be the living room  
18 and the kitchen, is that wall shared? What's on the  
19 other side of that wall?

20 A The wall -- this area is a living room, and if you  
21 go to this area, this will lead you back to the  
22 bedroom.

23 Q And farther down along this wall, what's on the  
24 other side of that wall?

25 A It had some sort of hole in it.

SIMMONS - DIRECT

285

1 Q And the room on the other side of that wall, one  
2 side is the living room the other side is the bedroom  
3 there?

4 A You're talking about this wall back here?

5 Q Yes, that wall and farther down this wall.

6 A If you go down this hallway, the master bedroom  
7 will be on the left. This is actually -- on the other  
8 side of this wall is the master bedroom.

9 Q Okay. So when we look at -- briefly, go back to  
10 Government's Exhibit 10 for a moment. That wall we  
11 were just looking at, is it this wall here?

12 A That is correct.

13 Q Now, I'm going to direct your attention now to the  
14 photograph admitted as 768A-28. And you took this  
15 overview as well of the living room.

16 And if we could zoom in, please, at the bottom of  
17 the carpet. Was there anything of significance toward  
18 the bottom of that blow-up? Is that the red stain  
19 that you were referring to earlier?

20 A Yes, in this area right here and here.

21 Q Now, turning to Government's Exhibit 768A-29, we  
22 also see down at the bottom of this photo on the left  
23 side of the bottom, also that's just a different view  
24 of the same stain; is that correct?

25 A That is correct.

SIMMONS - DIRECT

286

1 Q All right. In the living room, you took a picture  
2 here. What was the significance of taking a picture  
3 of this overview here?

4 A I noticed what looked like red stains on the wall  
5 towards the left of the pool table over here.

6 Q All right. You just basically put the dot right  
7 where the box is, right?

8 A Yes, ma'am.

9 Q So if I remove it, those are the stains that  
10 you're referring to. If you're looking at it, the  
11 right-hand side of the pool cues?

12 A Correct.

13 Q Turning to Government's Exhibit 768A-32, what's  
14 the significance of taking this shot?

15 A I see what appears to be possibly a bullet hole  
16 underneath the poster, the Scar Face poster.

17 Q Okay.

18 A And you can also see the red stains on the right  
19 side of where the pool sticks are hanging.

20 Q If we look to the farther point to the left of  
21 that picture, is that the back door there?

22 A It was like a sliding glass door, yes.

23 Q Then if we turn to Government's Exhibit 768A-33,  
24 is that the close-up or a closer shot of the same  
25 hole?



SIMMONS - DIRECT

287

1 A Yes, ma'am.

2 Q That's the one that's under the Scar Face poster  
3 that we looked at the bigger picture of?

4 A Correct.

5 Q Then turning to Government's Exhibit 768A-35, this  
6 was the mid-view, is that the mid-view of the red  
7 stain you saw?

8 A Correct.

9 Q Now, at some point did you take a sample of that?

10 A Yes, ma'am, I did.

11 Q How did you take the sample and what did you do  
12 with that?

13 A Basically, you take a swab similar to a Q-Tip, and  
14 I swabbed the wall, and then I place it in a little  
15 paper container. It looks like a little cardboard  
16 paper container. And sealed it as evidence. I  
17 believe it was submitted to the lab.

18 Q And you don't -- generally, you're not the one who  
19 would submit it to the lab. You just package it and  
20 put it in the evidence room; is that correct?

21 A Correct.

22 Q I want to ask you to take a look at what I believe  
23 may be in front of you and marked Government's Exhibit  
24 25 in your exhibit. It's only been marked for  
25 identification purposes as Government's Exhibit 25. I

SIMMONS - DIRECT

288

1 think it's the swabs themselves.

2 A Here it is. Yes.

3 Q From looking at that envelope, can you identify  
4 what that is that has been marked as Government's  
5 Exhibit 25?

6 A Yes, ma'am. It says "red stain swab from living  
7 room wall."

8 Q If you look at that envelope, is that the one that  
9 you prepared?

10 A Yes, ma'am, it is.

11 Q It's complete with your unit number and from where  
12 it was taken?

13 A Correct.

14 Q Okay. And the item number that was assigned to it  
15 by the evidence room, what number is the item number?

16 A The property item number is No. 25.

17 Q And it also happens to be marked as Government's  
18 Exhibit 25 as well; is that correct?

19 A Correct.

20 MS. NORMAN: Your Honor, at this time we'd  
21 move to admit that, Government's Exhibit 25, the swab  
22 of the red stain from the living room wall.

23 THE COURT: Any objection?

24 MR. COLLINS: No.

25 THE COURT: It's admitted.

SIMMONS - DIRECT

289

1 (Government's Exhibit No. 25 is admitted into  
2 evidence.)

3 Q All right. Now, sticking for a moment to the  
4 living room, I want to turn to what's been marked as  
5 Government's Exhibit 768A-37. Now, this is a  
6 different hole. This is also in the living room?

7 A Yes, ma'am, it is.

8 Q And can you just use your finger to kind of give  
9 us an idea of which hole we're talking about in the  
10 living room?

11 A It's a hole right here.

12 Q All right. Why did you document that? What was  
13 significant of that?

14 A It looked like an entrance hole. The hole on the  
15 other wall in the living room had like the sheetrock  
16 was protruding outward, so it kind of looked like it  
17 was going in an outward position. This particular  
18 hole looked like it was going inward. So that's why I  
19 took a photo of that.

20 Q So we'll call it the Scar Face hole because it's  
21 below the Scar Face poster.

22 A Okay.

23 Q You're saying it looked like it had come out of  
24 the wall?

25 A Correct.

SIMMONS - DIRECT

290

1 THE COURT: What's on the other side of the  
2 wall?

3 THE WITNESS: There's a bedroom on the other  
4 side.

5 THE COURT: What's on the other side of the  
6 wall here where this one looks like it's going in?

7 THE WITNESS: This wall is on the same wall  
8 where the rear sliding glass door is. I'm sorry. I  
9 didn't hear your question, sir.

10 THE COURT: What's on the other side of this  
11 wall? In other words, where did the bullet go that  
12 went through that wall? You have said it was going in  
13 the wall.

14 THE WITNESS: The bullet was inside this wall  
15 once I removed the sheet rock from it.

16 THE COURT: You found it inside the wall?

17 THE WITNESS: Yes, sir.

18 BY MS. NORMAN:

19 Q Okay. We'll come back to the recovery of that in  
20 a moment.

21 A Okay.

22 Q Was there anything else of significance in the  
23 living room that you recall?

24 A In the living room?

25 Q Yes.

SIMMONS - DIRECT

291

1 A Other than the two bullet holes and the red  
2 staining?

3 Q Yes.

4 A I believe that was it for the living room, yes.

5 Q I want to turn now to what was admitted as  
6 Government's Exhibit 768A-100 and ask you if you could  
7 tell us what that's a picture of?

8 A That's as you're coming in the front door to the  
9 residence. That is the wall that's directly on your  
10 right.

11 Q As you're coming in?

12 A Correct.

13 Q Did that show, that kind of big indentation, did  
14 that have any forensic value to you?

15 A I just -- other than I noted that it looked like  
16 something had happened there. There was an  
17 indentation. It looked like a lot of force had been  
18 applied.

19 Q That's a drywall wall or a sheetrock wall?

20 A Correct.

21 Q When you observed it, you said it looks like a lot  
22 of force was applied. What makes you consider that?

23 A Just -- I mean, just the size of it, and, you  
24 know, just the way that it was pushed in like that, I  
25 guess. It just caught my attention.

SIMMONS - DIRECT

292

1 Q Because of how far it was pushed in?

2 A Correct.

3 Q It doesn't look like -- it was too big to be a  
4 door knob handle or something like that?

5 A Right. It's not something I would think from  
6 slamming the door into it would have done that.

7 Q You photographed the vent. Why the vent?

8 A I believe the detectives that were on scene with  
9 me were searching, and I believe some sort of  
10 container with I think it ended up being money was  
11 inside that area.

12 Q I'm going to show you what's been admitted as  
13 Government's Exhibit 768A-103. Is that the photo of  
14 the contents of the vent?

15 A Correct.

16 Q All right. From there, let's take a look again at  
17 Government's Exhibit 10, which is your diagram. And  
18 you took a number of pictures in the bedroom that's on  
19 this floor; is that correct?

20 A Correct.

21 Q And, according to your diagram, there's only this  
22 one bedroom there?

23 A On the bottom floor, correct.

24 Q So now let's turn to that. I want to show you  
25 what was admitted as Government's Exhibit 51. What is

SIMMONS - DIRECT

293

1 that a picture of?

2 A That's the downstairs what I call the master  
3 bedroom.

4 Q Okay. What is the perspective that you took that  
5 picture from? Where were you standing when you took  
6 that picture?

7 A That was the entrance to the bedroom, the bedroom  
8 door.

9 Q There appears to be something bright and white to  
10 your right. Is that the wall or is that something  
11 else?

12 A This area right here, is that what you're talking  
13 about?

14 Q No, the other side here.

15 A This is the doorway, I guess. I'm just outside  
16 the doorway.

17 Q And is that basically how you found it when you  
18 arrived there to take the pictures?

19 A That is correct.

20 Q Now, I direct your attention to what's been marked  
21 as Government's Exhibit 55. What was the significance  
22 of taking this shot?

23 A This was just another view of the same bedroom.  
24 It's just showing the trash can's been knocked over.

25 Q Next to the trash can laying next to the trash can

SIMMONS - DIRECT

294

1 appears to be a mirror. Was there anything  
2 significant about that mirror?

3 A I think it was broken. There were some broken  
4 pieces of mirror on the floor.

5 Q Let's look at Government's Exhibit 768A-57.

6 MR. COLLINS: What was the number on that  
7 last one?

8 MS. NORMAN: 55.

9 MR. COLLINS: Thank you.

10 Q What is the significance of this picture?

11 A This one, I don't know if you can see it in this  
12 particular picture, but kind of at the bottom where  
13 the bottom mirrors are is what looked like a bullet  
14 hole.

15 Q Can you kind of put a big circle around the area  
16 you're referring to?

17 A (Complying.)

18 Q All right. So if we turn to 768A-58, is that a  
19 close-up of the same mirror?

20 A Yes, it is.

21 Q Then 768A-59, what is that?

22 A It appears to be a bullet hole.

23 Q And that's the same mirror we were just looking at  
24 in the master bedroom?

25 A Yes. There were several mirrors in there, but



SIMMONS - DIRECT

295

1 yes, that's a closer up.

2 Q Based on your investigation, did it appear that  
3 that bullet hole was coming into the bedroom or going  
4 out?

5 A It appeared to be going out, going into the wall.

6 Q Now, I want to turn now to the closet in the  
7 master bedroom. Turning to 768A-61, is that the  
8 depiction of the closet there?

9 A Yes, ma'am, it is.

10 Q At the top here there appears to be the corner  
11 where I'm trying to the draw arrow. Is that where the  
12 closet ends, sort of?

13 A Yeah.

14 Q So that's how big the closet is? That picture  
15 kind of depicts that with the ceiling there?

16 A Correct.

17 Q Okay. Now, did you find anything of significance  
18 inside that closet or document anything of  
19 significance inside the closet?

20 A Yes, I believe there were five cartridge casings  
21 and two bullets located inside this closet.

22 Q Okay. Let's start with, and we'll just kind of go  
23 through your pictures as we go, did you document each  
24 of these as you found them?

25 A Yes. Actually, the detectives searched the area,

SIMMONS - DIRECT

296

1 and as they found things, I would paragraph them and  
2 collect them.

3 Q So let's start with the photograph that's been  
4 admitted as 768A-106. Was that one of the shell  
5 casings that were found?

6 A Yes, ma'am.

7 Q I want to direct your attention to what's been  
8 marked as Government's Exhibit 8. Do you have that?

9 A Yes, ma'am.

10 Q What is Government's Exhibit 8?

11 A It's a Speer .45-caliber cartridge case GAP.

12 Q All right. Now, just to sort of help us out a  
13 little bit, I'm going to ask you to take a look at  
14 what's been marked as Government's Exhibit 23. And  
15 I'm going to hand you a hard copy. Then we'll put it  
16 up on the screen. What is the document I've just  
17 handed you?

18 A It's a sketch.

19 Q Who did the sketch?

20 A I did.

21 Q What's it a sketch of?

22 A It's of the downstairs bedroom wall.

23 Q There's sort of two sketches on there; is that  
24 correct?

25 A And the bottom is of the downstairs bedroom.

SIMMONS - DIRECT

297

1 Q Were these sketches that you did at the time of  
2 your investigation?

3 A Yes, it is.

4 MS. NORMAN: Your Honor, at this time the  
5 United States would move to admit Government's Exhibit  
6 23.

7 THE COURT: Any objection?

8 MR. COLLINS: No objection.

9 THE COURT: It's admitted.

10 (Government's Exhibit No. 23 is admitted into  
11 evidence.)

12 BY MS. NORMAN:

13 Q By looking at the item that's been marked as  
14 Government's Exhibit 8, can you tell us where you  
15 located what's been marked as Government's Exhibit 8?  
16 And I'm going to put your diagram up on the screen  
17 now.

18 A Okay.

19 Q This is kind of hard to read for us. That's why I  
20 wanted to hand you your physical copy.

21 A It's -- this is, this bottom sketch, is just kind  
22 of like a rough sketch of the bedroom layout. This is  
23 if you're coming in the bedroom, and this particular  
24 item is, on this particular sketch, it's going to be  
25 item No. 2. I don't know if you can see that.

SIMMONS - DIRECT

298

1 Q So item No. 2 is -- and you don't have the bed  
2 drawn on here, but, in essence, it would be found at  
3 basically the foot of the bed?

4 A Correct, it was at the foot of the bed.

5 Q And now --

6 THE COURT: Where is that on this? Circle  
7 it. Circle item No. 2.

8 There you go. Sometimes it doesn't work  
9 right, does it?

10 THE WITNESS: (Complying.)

11 Q So what has been marked as Government's Exhibit 8  
12 was found there in the middle of the room where you  
13 just circled where the number 2 is?

14 A Correct.

15 Q Now, I want to turn to what's been marked as  
16 Government's Exhibit 9, the physical exhibit. Could  
17 you tell the ladies and gentlemen of the jury what  
18 that item is?

19 A This is what appeared to be a shotgun wad and  
20 pellets.

21 Q Looking at your diagram, can you tell us what  
22 number that is on your diagram and where it was found?

23 A On this bottom diagram, it's what's labeled on  
24 this one as item 3.

25 Q We drew it right next to 2; is that correct?

SIMMONS - DIRECT

299

1 A Correct.

2 Q And just so that when we're going back through the  
3 evidence, you have applied your recovery number,  
4 right, the number that you assigned each piece of  
5 evidence, and so it's listed as 768-whatever?

6 A Correct.

7 Q And so that item that you're holding that's marked  
8 for identification purposes as Government's Exhibit 9,  
9 what is your unit number and recovery number on that?

10 A On this particular item, I labeled it 768-3.

11 Q And then the number 9 is the Government's Exhibit  
12 number, but is that also the evidence room number?

13 A Correct.

14 Q So both those numbers appear on that document?

15 A Yes, ma'am.

16 Q And that's the actual shotgun wad that was  
17 recovered?

18 A Yes, ma'am.

19 Q Can you open that and let us see what that looks  
20 like, please?

21 A Yes, ma'am. (Complying.)

22 MS. NORMAN: Your Honor, at this time while  
23 she's doing that, the United States would move to  
24 admit Government's Exhibit 8, which was the casing  
25 that was found in the middle of the room, and then

SIMMONS - DIRECT

300

1 Government's Exhibit 9, which is the shotgun wad that  
2 she's opening.

3 THE COURT: Any objection?

4 MR. COLLINS: No objection.

5 THE COURT: All right.

6 (Government's Exhibits No. 8 and No. 9 are  
7 admitted into evidence.)

8 THE COURT: Have you offered 10?

9 MS. NORMAN: I believe I've already offered  
10 10, but we'll move to admit it at this time.

11 THE COURT: Any objection?

12 MR. COLLINS: No.

13 MS. NORMAN: And I believe 23 was admitted as  
14 well.

15 THE COURT: Yes.

16 (Government's Exhibit No. 10 was admitted  
17 into evidence.)

18 BY MS. NORMAN:

19 Q Can you kind of hold it up and show us what  
20 exactly that looks like?

21 A Yes. There are some fibers on it, but --

22 THE COURT: That's the wad?

23 THE WITNESS: Yes, sir.

24 Q And I'm going to now show you a photograph that is  
25 Government's Exhibit 768A-114. Tell us what we're

SIMMONS - DIRECT

301

1 looking at in this picture.

2 A That's a close-up of the wadding, and I think you  
3 can see some of the pellets as well.

4 Q And there's a ruler here at the bottom, and the  
5 item number says "Item No. 768-," and then there's a  
6 little piece of paper on there that says "3."

7 A Correct.

8 Q So that's your recovery number, so to speak?

9 A That's correct.

10 Q Turning to what's been admitted as Government's  
11 Exhibit 768A-125, in that photograph did you note  
12 something of forensic value in that picture? I'm  
13 sorry. Let me try a better picture. Let me show you  
14 what's been marked as Government's Exhibit 129 and  
15 admitted. What is that item?

16 A It appeared to be a bullet.

17 Q Where was that located?

18 A That's as you're walking right into the closet.  
19 It's like the little, I guess, I don't know what you  
20 call those little things that separates -- when you go  
21 into different rooms, the little piece of -- like the  
22 threshold area.

23 Q And it was just laying there in between the closet  
24 and the room?

25 A Correct.

SIMMONS - DIRECT

302

1 Q Do you have that bullet with you?

2 A Yes, ma'am, I do.

3 Q And it should be marked for identification  
4 purposes as Government's Exhibit 5.

5 A Is it Government's Exhibit 11?

6 Q I'm sorry. Yes. Government's Exhibit 11. My  
7 apologies.

8 A Did you want me to open it?

9 Q Without opening it, can you check and look and see  
10 if that's, in fact, the same bullet that was  
11 recovered?

12 A Yes, ma'am, it is.

13 THE COURT: How many bullets did you find?

14 THE WITNESS: Two in the closet and one in  
15 the wall. So three. We recovered three.

16 THE COURT: Three?

17 THE WITNESS: Yes, sir.

18 THE COURT: How many shell casings did you  
19 find?

20 THE WITNESS: Seven.

21 THE COURT: Have you got some diagram that  
22 shows exactly where you found each one of them?

23 THE WITNESS: There's several diagrams.

24 BY MS. NORMAN:

25 Q And we can turn now then to Government's Exhibit



SIMMONS - DIRECT

303

1 23.

2 THE COURT: Were they all the same caliber or  
3 different calibers?

4 THE WITNESS: They were all the same caliber.

5 THE COURT: What caliber was that?

6 THE WITNESS: .45 Speer GAP.

7 THE COURT: Now, if you have a diagram or  
8 something that shows where they are were, maybe we can  
9 get to that and it may go a littler faster.

10 Q If you look at what's been marked as Government's  
11 Exhibit 23, does that diagram depict where each of the  
12 shell casings were found?

13 A Yes, it does.

14 THE COURT: What are the numbers on there of  
15 the shell casings?

16 THE WITNESS: The shell casings were -- let's  
17 see.

18 THE COURT: You're on Government's Exhibit  
19 10?

20 MS. NORMAN: No, 23, Your Honor.

21 THE WITNESS: Seven, 8, 9, 11, 14, No. 2, and  
22 No. 20.

23 THE COURT: Those are casings, right?

24 THE WITNESS: Yes, sir.

25 THE COURT: What about the bullets

SIMMONS - DIRECT

304

1 themselves?

2 THE WITNESS: The bullets themselves?

3 THE COURT: There were three of them, you  
4 said.

5 THE WITNESS: Yes, sir. Fifteen, No. 5, and  
6 then the one that was in the living room, and the one  
7 in the living room is going to be Exhibit No. 19.

8 BY MS. NORMAN:

9 Q Is that your No. 19 or is it Government's Exhibit  
10 19?

11 A It's Government's Exhibit and Property No. 19.

12 Q Okay.

13 THE COURT: Okay. So those are the bullets?

14 THE WITNESS: Yes, sir.

15 Q So if we could go back to the casings that were  
16 recovered.

17 A Okay.

18 Q According to your diagram, there was a 20 that's  
19 circled in the middle of the bottom picture there next  
20 to 3 and 2 that we've already talked about.

21 A Correct.

22 Q And then there's also all the rest of the numbers  
23 appear to be in the closet itself; is that correct?

24 A Yes, ma'am.

25 Q Where were they located within the closet itself?

SIMMONS - DIRECT

305

1 THE COURT: Why are you talking about 20?  
2 She said the casings were 7, 8, 9, 11, 14, 2 and 3.  
3 Is 20 a casing?

4 MS. NORMAN: No. 7, 8, 9, 11 --

5 THE COURT: 14, 2 and 3.

6 THE WITNESS: Two and 20.

7 THE COURT: Two and 20?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. How many of the casings  
10 were located in the closet?

11 THE WITNESS: Five were in the closet.

12 Q I want to show you what has been marked or has  
13 been admitted as Government's Exhibit 768A-144. What  
14 does that picture show us?

15 A That's a picture of three cartridge casings.

16 Q Where was that bin? Was that the bin that was in  
17 the closet?

18 A Yes, that was a purple tub, plastic tub, in the  
19 master bedroom closet.

20 Q And you noted that it was -- if you could pull,  
21 please, what's been marked as Government's Exhibit 13,  
22 14 and 15.

23 A Okay.

24 Q Government's Exhibit 13, what is that?

25 A It's a Speer .45-caliber GAP cartridge case.

SIMMONS - DIRECT

306

1 Q What number on your diagram No. 23 does that  
2 correspond to?

3 A It's my No. 768-7 or No. 7.

4 Q And then Exhibit 14, what is that?

5 A That's going to be a Speer .45-caliber cartridge  
6 case GAP.

7 Q What number does that correspond to on your  
8 diagram?

9 A On my diagram it's No. 8.

10 Q And then Government's Exhibit 15, what is that?

11 A Government's Exhibit 15, that's going to be my  
12 item No. 9, and it's a .45-caliber Speer cartridge  
13 case GAP.

14 MS. NORMAN: Your Honor, at this time the  
15 United States would move to admit Government's  
16 Exhibits 13, 14 and 15.

17 MR. COLLINS: No objection.

18 THE COURT: It's admitted.

19 (Government's Exhibits No. 13, 14 and 15 were  
20 admitted into evidence.)

21 Q And now, if you could, take a look at what's been  
22 marked as Government's Exhibit 17 and what's been  
23 marked as Government's Exhibit 20.

24 A Okay.

25 Q Can you tell us what those two items are?

SIMMONS - DIRECT

307

1 A .45-caliber Speer GAP cartridge case.

2 Q And what's been marked for identification as  
3 Government's Exhibit 17, what number does that  
4 correspond to on your diagram?

5 A No. 11.

6 Q And that's also there and shows in the closet; is  
7 that correct?

8 A Correct.

9 Q And what's been marked as Government's Exhibit 20,  
10 what number does that correlate to, if any, on your  
11 diagram?

12 A It's my No. 14, which was in the purple tub.

13 MS. NORMAN: Your Honor, at this time the  
14 United States would move to admit Government's Exhibit  
15 17 and 20.

16 MR. COLLINS: No objection.

17 THE COURT: It's admitted.

18 (Government's Exhibits No. 17 and 20 are  
19 admitted into evidence.)

20 THE COURT: What is Government's Exhibit 11?

21 THE CLERK: That's the bullet.

22 THE COURT: Is that admitted?

23 THE CLERK: Yes, sir.

24 THE COURT: All right. Thank you.

25 Q Now, I want to turn to what has been marked as

SIMMONS - DIRECT

308

1 Government's Exhibit 19. What is that?

2 A That is a bullet.

3 Q Then also I would like you to take a look at what  
4 has been marked as Government's Exhibit 21. What is  
5 that?

6 A That is a bullet.

7 Q Let's start with Exhibit 21. Can you tell the  
8 ladies and gentlemen of the jury where you found  
9 Exhibit 21?

10 A It was in a black shoe in the top of the closet,  
11 the master bedroom closet.

12 Q What is your corresponding number that's on your  
13 diagram for that exhibit?

14 A Number 15.

15 Q All right. If we look at what's been admitted as  
16 Government's Exhibit 23, there's a 15 that is down in  
17 the corner of the closet; is that correct? Can you  
18 put a mark where it is?

19 A Where the 15 is?

20 Q Yes, please.

21 A (Complying.)

22 Q And I want to show you what has been admitted as  
23 Government's Exhibit 768A-193. What does that picture  
24 depict?

25 A That's a picture looking into the black shoe and

SIMMONS - DIRECT

309

1 there's a bullet in it.

2 Q Okay. And I'm going to take it out and look at  
3 Government's Exhibit 768A-192. Had you taken the shoe  
4 out of the closet to take that picture?

5 A I believe I had, yes.

6 Q Now, what's admitted as 768A-190, is that where  
7 the shoe was when you first found it?

8 A Yes, it is.

9 MS. NORMAN: Your Honor, the government moves  
10 to admit Government's Exhibit 21, which is the bullet  
11 from the shoe.

12 MR. COLLINS: No objection.

13 THE COURT: It's admitted.

14 (Government's Exhibit No. 21 is admitted into  
15 evidence.)

16 MS. NORMAN: One moment, Your Honor.

17 Q Now, I want to show you a photograph that has been  
18 admitted as Government's Exhibit 768A-133. What is  
19 that?

20 A That is a picture of the handgun.

21 Q Where was that located?

22 A It was located in the bottom of the master bedroom  
23 closet.

24 Q And I want you to look at what's been previously  
25 marked for identification as Government's Exhibit 12.

SIMMONS - DIRECT

310

1 What is that?

2 A This was the handgun that was found in the master  
3 bedroom closet.

4 Q And that box has been opened now; is that correct?

5 A Yes. Downstairs they opened it.

6 Q And explain to the jury why it gets opened  
7 downstairs.

8 THE COURT: Downstairs here in the  
9 courthouse?

10 MS. NORMAN: Yes.

11 THE COURT: It's opened for security. Our  
12 security officers opened it and took care of it.

13 MR. COLLINS: And it raises no issues.

14 BY MS. NORMAN:

15 Q Can you take the item out of the box and show the  
16 jury?

17 A (Complying.)

18 Q So the item that's in your right hand, that was in  
19 the firearm when you found it?

20 A Yes, it was.

21 Q And the firearm is locked back now for safety, but  
22 was it in that condition when you found it?

23 A When the detective found it in the closet, it  
24 was -- what he told me, it was back. The slide was  
25 back.



SIMMONS - DIRECT

311

1 THE COURT: How many rounds does that  
2 magazine hold?

3 THE WITNESS: I believe it holds eight.

4 Q How many shell casings did you recover from that  
5 bedroom?

6 A Seven.

7 MS. NORMAN: Your Honor, at this time we'd  
8 move to admit Government's Exhibit 12, which is the  
9 pistol and magazine.

10 THE COURT: No objection?

11 MR. COLLINS: No.

12 THE COURT: It's admitted.

13 (Government's Exhibit No. 12 is admitted into  
14 evidence.)

15 BY MS. NORMAN:

16 Q When you collected that item, did you also have to  
17 fill out a form that described the weapon?

18 A Yes, ma'am, I did.

19 Q What's the purpose of that?

20 A Just to describe, as we found it, simple things  
21 like was it loaded, were there any cartridges in it,  
22 anything in the chamber. It's just a procedure we do  
23 to document how we find a handgun.

24 Q I'm going to show you what's been marked as  
25 Government's Exhibit 45. Is that the form that you

SIMMONS - DIRECT

312

1 filled out?

2 A Yes, ma'am.

3 MS. NORMAN: Your Honor, at this time the  
4 United States would move to admit Government's Exhibit  
5 45.

6 MR. COLLINS: Without objection.

7 THE COURT: It's admitted.

8 (Government's Exhibit No. 45 is admitted into  
9 evidence.)

10 Q Now, turning to what's been admitted as  
11 Government's Exhibit 768A-197, it's a photograph. Can  
12 you tell us where that hole is?

13 A That's in the master bedroom. I don't know if you  
14 can tell. This is the doorway right here of the  
15 master bedroom. So if you were walking in that  
16 bedroom, it's directly on your left.

17 Q Now, at some point did you-all have the  
18 opportunity to --

19 THE COURT: Excuse me. What hole are you  
20 talking about? There's an indentation. Is that the  
21 big indentation or those two little dark spots?

22 THE WITNESS: It's this indentation right  
23 here. At the time we didn't know if it was a bullet  
24 hole or not, but we documented it.

25 Q Did you check to see if it was a bullet hole?

SIMMONS - DIRECT

313

1 A Yes, ma'am, we did.

2 Q Did you guys find anything? Tell the jury first  
3 how you investigated to see if it was a bullet hole.

4 A We removed the sheetrock. Well, we photographed  
5 it and looked to see if we could see anything sticking  
6 out of it. Then we removed the sheetrock and we did  
7 not locate a bullet within that area.

8 Q Finally, I think we may have missed one item, and  
9 I would ask you to take a look at what's been marked  
10 as Government's Exhibit 26. What is that?

11 A It's a .45 Speer caliber cartridge case GAP.

12 Q What item number of yours was that?

13 A That's my item No. 20.

14 Q Is that what is depicted in your diagram and  
15 circled as 20 in the middle of the bottom picture?

16 A Yes, ma'am, it is.

17 Q Okay. Turning back for a moment to your diagram  
18 --

19 MS. NORMAN: And, Your Honor, we would move  
20 to admit what's been marked as Government's Exhibit  
21 26.

22 THE COURT: Any objection?

23 MR. COLLINS: No, sir.

24 THE COURT: Is 19 in?

25 MS. NORMAN: 19 is not in yet, Your Honor.

SIMMONS - DIRECT

314

1 THE COURT: Okay.

2 (Government's Exhibit No. 26 is admitted into  
3 evidence.)

4 Q Now, looking --

5 THE COURT: Excuse me. Is there an exhibit  
6 number for your casing marked No. 2?

7 THE WITNESS: That was Exhibit No. 8, I  
8 believe.

9 THE COURT: Eight or A?

10 THE WITNESS: Eight.

11 Government's Exhibit 8 is my No. 2.

12 THE COURT: All right. I see. All right.

13 Thank you.

14 Q What else in addition to the bullets and casings  
15 that were recovered out of the closet, the shotgun  
16 wad, the two casings there in the middle of the room,  
17 what other items of forensic interest did you locate  
18 in that room?

19 A You mean the money that was -- I know money was  
20 located in some of the vents.

21 Q Okay. Turning now to -- you have a little  
22 triangle. I'm going to circle it. What is that mark  
23 there?

24 A That is what appears to be a bullet hole  
25 underneath the broken mirror.

SIMMONS - DIRECT

315

1 Q Okay. When you saw that bullet hole -- let's turn  
2 now to a photograph that's been marked as 768A-167.  
3 What does this picture show with regard to the holes  
4 in the wall? And tell us why this is a relevant  
5 picture.

6 A If you notice, there's a hole over here right  
7 there. That kind of matches up to the other side of  
8 the wall where that's the master bedroom with the hole  
9 that's underneath the broken mirror. And then there's  
10 another hole over here in this same sort of area.

11 Q Okay. So let's look -- I'm going to clear this  
12 for a moment. Let's look at photograph 768A-168.  
13 Now, is this one of the holes there in the living  
14 room?

15 A Yes, that's the one directly to the left of the  
16 sliding glass doors, like a little gaming console or  
17 gaming thing.

18 Q If you could, using this photograph, can you  
19 explain forensically, what did you conclude from the  
20 appearance of this hole?

21 A It appeared as though something went into this  
22 wall.

23 Q Okay. Did you investigate further?

24 A Yes. We removed the sheetrock and we located a  
25 bullet.

SIMMONS - DIRECT

316

1 Q I'm going to turn to photograph 768A-183. Is that  
2 your handywork?

3 A Yes, ma'am.

4 Q And this picture shows that a piece of the drywall  
5 has been removed; is that correct?

6 A That's correct.

7 THE COURT: What was the bullet in? Was that  
8 a stud that it was in?

9 THE WITNESS: You'll see I think it's kind of  
10 more so in the insulation.

11 THE COURT: In the insulation?

12 THE WITNESS: You can see it on the closer  
13 up. There it is. You can see it closer.

14 Q This is 768A-184. And that shows the bullet sort  
15 of shoved into the insulation there?

16 A Correct.

17 Q All right. Can you take a look now at what's been  
18 marked for identification purposes as Exhibit 19?

19 A Yes, ma'am.

20 Q Tell the ladies and gentlemen of the jury what is  
21 Government's Exhibit 19? What is that item?

22 A It's a bullet.

23 Q Which bullet is that?

24 A It's the one that you're looking at a picture of  
25 in the living room. It came from the living room

SIMMONS - DIRECT

317

1 wall.

2 Q Okay. I'm going to turn to the photograph that's  
3 been marked 768A-228. What are those?

4 A Those are trajectory sticks. We sometimes use  
5 those and try to show the trajectory of a bullet.

6 Q When you first look at the picture if you don't  
7 know what you're looking for, it's kind of hard to  
8 see. Can you circle the trajectory sticks?

9 A (Complying.)

10 Q So in between there?

11 A And there's one over here.

12 Q When you-all did the trajectory sticks, were you  
13 able to determine that the trajectory matched those  
14 holes there?

15 A It looked like it matched up.

16 Q I'm going to show you what's been marked and  
17 admitted as Exhibit 768A-229. Is there also a  
18 trajectory stick in that picture?

19 A Yes, ma'am. There's one right here.

20 Q And when that stick was stuck through, did it go  
21 through to the hole in the living room?

22 A Yes, it did.

23 Q Based on that, did you draw any conclusions based  
24 on those findings?

25 A It appears -- I'm not a trajectory expert, but it

SIMMONS - DIRECT

318

1 appeared the bullet went through that wall and into  
2 the living room and ended up in that adjacent wall  
3 next to the sliding glass door.

4 Q Other than those three holes we sort of focused on  
5 just now, were there any other holes that you found  
6 that you were able to confirm were bullet holes?

7 A No. There were two other holes. One was as  
8 you're entering the kitchen on the left across from  
9 the refrigerator. We removed the sheetrock, but we  
10 did not locate any bullets. There was one hole in the  
11 upstairs ceiling. One of the detectives went up into  
12 the -- it's like a crawl space area. And he said it  
13 looked like if it had been a bullet hole, it had  
14 exited through the roof.

15 Q So there was no way to confirm that it was?

16 A Correct.

17 MS. NORMAN: I believe I moved Exhibit 19.

18 MR. COLLINS: She didn't, but no objection.

19 THE COURT: It's admitted without objection.

20 (Government's Exhibit No. 19 is admitted into  
21 evidence.)

22 Q I want to turn now, changing focus a little bit,  
23 to what's been admitted as Government's Exhibit  
24 768A-68, which is another photograph. Turning now,  
25 what was the significance of this photo for your



SIMMONS - DIRECT

319

1 investigation?

2 A It appeared to be possibly blood on the side of  
3 the refrigerator right here.

4 Q Let's zoom in for a moment and take a look at  
5 what's been marked as Government's Exhibit 768A-209.  
6 Is that the same stain, just closer?

7 A Yes, ma'am.

8 Q I'm going to direct you now to Government's  
9 Exhibit 768A-211. Is that a close-up of that item?

10 A Yes, ma'am, it is.

11 Q Because of the shadow it's kind of hard to see  
12 that you have a number there.

13 A Yes.

14 Q I'm going to ask you to take a look at what's been  
15 marked for identification purposes as Government's  
16 Exhibit 24.

17 A Okay.

18 Q Can you tell us what that item is?

19 A It's government's Exhibit 24, but it was my  
20 No. 18, 768A-18.

21 Q Okay. Can you tell from that what the item is  
22 that's contained in that envelope?

23 A It's a red stained swab from the side of the  
24 refrigerator.

25 Q It also has a caution "bio hazard" on the back

SIMMONS - DIRECT

320

1 because of what it potentially is?

2 A Correct.

3 Q So I'm not going to ask you to open that.

4 That item also has an evidence room item number on  
5 it; is that correct?

6 A That's correct.

7 Q What is the evidence room number?

8 A The evidence room item number is 24.

9 MS. NORMAN: Your Honor, I believe I have  
10 already moved to admit Government's Exhibit 25, and  
11 now the United States would move to admit Government's  
12 Exhibit 24.

13 THE COURT: Any objection?

14 MR. COLLINS: No, sir.

15 THE COURT: It's admitted.

16 (Government's Exhibit No. 24 is admitted into  
17 evidence.)

18 Q Finally, turning to what's been marked as  
19 Government's Exhibit 34 -- I'm sorry. That's the  
20 wrong exhibit. Disregard that.

21 MS. NORMAN: We have no further questions,  
22 Your Honor.

23 MR. COLLINS: Could I have 768A-55?

24 MS. NORMAN: Yes.

25

1 CROSS-EXAMINATION

2 BY MR. COLLINS:

3 Q Good afternoon, Ms. Simmons.

4 A Good afternoon.

5 Q The thing that Mr. Perkins had on his back that  
6 you photographed, did you take a sample of that?

7 A No, sir, I did not.

8 Q So we don't have any idea what that is?

9 A No, sir.

10 THE COURT: Wait a minute. What are we  
11 talking about here?

12 MR. COLLINS: Do you remember the photograph  
13 of the tattoo?

14 THE COURT: I thought you were talking about  
15 this exhibit.

16 MR. COLLINS: No.

17 THE COURT: I see. Okay. Did she take a  
18 sample of the tattoo and we don't have any sample of  
19 it?

20 MR. COLLINS: No, whatever the green thing  
21 was.

22 THE COURT: Oh, the green thing. I see.

23 Q This is the bedroom, correct?

24 A Yes, sir.

25 Q I'm a little bit confused. You said you found a

SIMMONS - CROSS

322

1 total of seven cartridge casings?

2 A Yes, sir.

3 Q Five of them in the closet, correct?

4 A Correct.

5 Q Where were the other two?

6 A The other two were on the bedroom floor kind of  
7 near the foot of the bed.

8 Q Okay. What does this sign here say up in the  
9 right-hand corner?

10 A "Marijuana Way."

11 Q The hole in the wall by the front door that you  
12 showed some interest in, how long had that been there?

13 A I don't know, sir.

14 Q When you were in the closet, did you notice a pile  
15 of clothes in the closet?

16 A There were many clothes in the closet.

17 Q Hanging or in a pile?

18 A They were hanging.

19 MR. COLLINS: That's all I have. Thank you.  
20 Judge, I would like about 10 minutes if I  
21 could.

22 THE COURT: All right.

23 MS. NORMAN: We have no --

24 THE COURT: Can she be excused?

25 MS. NORMAN: She can be excused, yes, sir.

SIMMONS - CROSS

323

1 THE COURT: All right.

2 (The witness was excused from the witness  
3 stand.)

4 THE COURT: Ladies and gentlemen, there's no  
5 such thing as a 10-minute recess. We'll take 15  
6 minutes.

7 (The jury is out at 2:38 p.m.)

8 THE COURT: All right. You want to take a  
9 recess now?

10 MR. COLLINS: Pardon?

11 THE COURT: You want to take a recess?

12 MR. COLLINS: Yes, sir.

13 MS. NORMAN: Yes.

14 THE COURT: All right.

15 (Recess taken.)

16 THE COURT: Next witness, please.

17 MS. NORMAN: The United States calls  
18 Detective Brad Conner.

19

20 BRAD CONNER, called by the United States, first  
21 being duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. NORMAN:

24 Q Good afternoon.

25 A Good afternoon.

CONNER - DIRECT

324

1 Q Can you please tell the ladies and gentlemen of  
2 the jury your name and where and how you are employed?

3 A Detective Brad Conner. I'm a detective with  
4 Chesterfield County Police Department.

5 Q Detective Conner, how long have you been with the  
6 Chesterfield County Police Department?

7 A About 12 and a half years.

8 Q Back on May 15 of 2009, what was your position  
9 with the Chesterfield Police Department?

10 A I was a detective in our Crimes Against Persons  
11 Unit.

12 Q Okay. On May 15 of 2009, there was an incident at  
13 1453 Lockett Ridge Road in Chesterfield County,  
14 Virginia. Did you respond to that call?

15 A That is correct.

16 Q When did you arrive there?

17 A I don't have my exact time of arrival. I believe  
18 the call came in somewhere around 1:30, 1:55. 1:58 is  
19 when we received it. So I would have been called out  
20 somewhere within an hour, an hour and a half.

21 Q When you got to the scene, did you speak to  
22 anybody who was there?

23 A I was briefed by the officers on the scene. Then  
24 I conducted interviews with the two victims on the  
25 scene.

CONNER - DIRECT

325

1 Q Who were the two victims on the scene?

2 A Anwan Jones and Keona Peoples.

3 Q In essence, what did they tell you happened that  
4 day or that morning, early morning hours?

5 A They indicated that they had been at a place in  
6 the city of Richmond called The Foot Locker. I'm not  
7 familiar with it. So I'm not quite sure if it's a  
8 club, but they had been there. They came back home.  
9 As they were getting ready to enter the residence,  
10 they heard somebody come up behind them, forced their  
11 way --

12 THE COURT: What are we doing listening to  
13 him tell what they said? How does that get in?

14 MS. NORMAN: Your Honor, we can move on from  
15 there.

16 THE COURT: Yeah. Besides that, we've heard  
17 it all once, twice or three times.

18 MS. NORMAN: Yes, sir.

19 THE COURT: The jury is paying attention.

20 MS. NORMAN: Yes, sir.

21 Q Based on that, was there any allegation made at  
22 that time that there had been gunshots at that  
23 residence?

24 A There had.

25 Q Later in the day on May 15 of 2009, did you

CONNER - DIRECT

326

1 receive information that there was someone potentially  
2 with a gunshot wound in a nearby hospital?

3 A Correct.

4 Q Please tell the ladies and gentlemen of the jury  
5 based on receiving that information, what did you do?

6 A Detective Clayton and myself responded to  
7 Southside Regional Medical Center where an individual  
8 had been pointed out that had come into the hospital  
9 with a gunshot wound to the arm.

10 Q At that time on May 15, 2009, did you attempt to  
11 speak to the individual?

12 A Detective Clayton and myself both attempted to  
13 speak with the individual, and he indicated that he  
14 did not wish to speak with us at that time.

15 Q Is that individual you attempted to speak with, is  
16 he in the courtroom today?

17 A He's sitting with counsel.

18 Q For the record, that would be the man in the  
19 striped shirt who is the defendant?

20 A Correct.

21 Q At some point after that did you go back to the  
22 hospital on a different day?

23 A Yes, I responded to the hospital I believe it was  
24 the 20th of May to collect a buccal swab, which is a  
25 DNA sample, a Q-Tip that's used on the interior of the



CONNER - DIRECT

327

1 mouth to collect saliva to obtain DNA.

2 Q Is that the same incident or the same trip to the  
3 hospital that -- did you take that with Detective  
4 Clayton?

5 A Yes, ma'am.

6 Q Did you all actually take the swab?

7 A Yes, ma'am, and it was turned over to Detective  
8 Clayton.

9 Q Once you turned it over to Detective Clayton, at  
10 that point did something else happen while you were  
11 there at the hospital?

12 A Mr. Pernell indicated that he wished to speak with  
13 us and so I listened to what he had to say.

14 Q All right. Well, before we get to that, and we'll  
15 get to that in one moment, I do want to direct your  
16 attention to what has been marked as Government's  
17 Exhibits 2, 3, 4, 5, 6, 7, and 30. I'm going to have  
18 the court security officer hand them to you.

19 Before we get into the rest of it, if you could  
20 tell me what the document that's been marked as  
21 Government's Exhibit 2, can you tell us what that is,  
22 please?

23 A It's a certificate of analysis by the Virginia  
24 Department of Forensic Science dated September 29th of  
25 2010.

CONNER - DIRECT

328

1 Q According to that exhibit, what does the  
2 certificate of analysis pertain to?

3 A It's a certificate of analysis for items that were  
4 submitted to the lab, which indicate a red stain that  
5 was obtained from the refrigerator, a red stain that  
6 was obtained from the living room, as well as those  
7 buccal swabs previously mentioned taken from Mr.  
8 Pernell.

9 Q Okay. Then Government's Exhibit 3, what document  
10 is that?

11 A That's a certificate of analysis from the Virginia  
12 Department of Forensic Science dated August 12, 2009.  
13 And this certificate of analysis is in relation to a  
14 firearm as well as several cartridge cases of bullets  
15 that were submitted to the Department of Forensic  
16 Science.

17 Q On that certificate of analysis, is that your case  
18 number there at the top of it, it says your case  
19 No. 2009?

20 A Correct.

21 Q 150036?

22 A Yes, ma'am.

23 Q In fact, if we look back for a moment at  
24 Government's Exhibit 2, that also is related to your  
25 case; is that correct?

CONNER - DIRECT

329

1 A Yes, ma'am.

2 Q Now, turning to Government's Exhibit 4, what is  
3 that document?

4 A It's a certificate of analysis from the Virginia  
5 Department of Forensic Science dated July 16, 2009, in  
6 reference to the gun cartridge cases that were  
7 submitted for fingerprint analysis.

8 Q Turning now to what's been marked as Government's  
9 Exhibit 5, for the record what is that document?

10 A The certificate of analysis from the Virginia  
11 Department of Forensic science Dated November 3, 2009,  
12 and this is in relation to a case from the City of  
13 Richmond.

14 Q Okay.

15 A Involving cartridge cases.

16 Q Involving six cartridge cases?

17 A Correct.

18 Q And then turning now to Government's Exhibit 6,  
19 what is that document?

20 A It's a certificate of analysis from the Virginia  
21 Department of Forensic Science dated November 3, 2009,  
22 pertaining to one cartridge case.

23 Q Okay. Does that cartridge case, the item number,  
24 does that refer back to your case number in  
25 Chesterfield County?

CONNER - DIRECT

330

1 A Yes, it does.

2 Q Now turning to Government's Exhibit 7, what is  
3 that document?

4 A This is a certificate of analysis from the  
5 Virginia Department of Forensic Science dated July 7,  
6 2009, for a primer residue kit from a Frank Williams.

7 Q Finally, turning to Government's Exhibit 30, can  
8 you tell us what that document is?

9 A It's a certificate of analysis from the Virginia  
10 Department of Forensic Science dated August 4, 2009,  
11 and it's for a primer residue kit from Keona Peoples  
12 as well as Anwan Jones.

13 Q As the lead investigator in this case, did you  
14 receive a copy of each of these certificates of  
15 analysis?

16 A Yes.

17 Q With the exception of what -- all of them, excuse  
18 me, came directly from the Division of Forensic  
19 Science with the exception of the one pertaining to  
20 the Richmond case; is that correct?

21 A Correct. Exhibit No. 5 would have gone straight  
22 to the Richmond Police Department.

23 Q But as the lead investigator, you were able to  
24 obtain a copy of this?

25 A Correct.

CONNER - DIRECT

331

1 MS. NORMAN: Your Honor, at this time the  
2 United States would move to admit Government's  
3 Exhibits 2, 3, 4, 5, 6, 7, and 30. They are the  
4 subject of a stipulation, which will be entered after  
5 this witness, but because he's the one who can  
6 identify specifically what those documents are, we  
7 would go ahead and admit them now.

8 MR. COLLINS: No objection.

9 THE COURT: They are admitted.

10 (Government's Exhibits No. 2, 3, 4, 5, 6, 7  
11 and 30 are admitted into evidence.)

12 Q So when you went back to the hospital on May 20 of  
13 2009, you said that the defendant, Mr. Pernell, told  
14 you that he wanted to talk to you?

15 A Correct.

16 Q So tell the ladies and gentlemen of the jury what  
17 Mr. Pernell told you that day.

18 A Mr. Pernell indicated that he had been called by a  
19 friend to come and "cover his back" while they went to  
20 the residence on Lockett Ridge to straighten out  
21 Anwan. Mr. Pernell stated that Anwan had some "messed  
22 up money and product," that his friend was going over  
23 there to take care of it.

24 Mr. Pernell indicated that when he got there,  
25 Anwan as well as his girlfriend, who he did not know

CONNER - DIRECT

332

1 the name of, were there at the residence and that they  
2 went inside the residence and did not actually break  
3 into the residence.

4 Mr. Pernell indicated that the female, who was  
5 later identified as Keona Peoples, started going off  
6 about some stuff. Wasn't quite sure what was going  
7 on. And at some point she left and went to the rear  
8 of the residence.

9 Mr. Pernell indicated that several minutes later  
10 he was directed to go back and figure out what  
11 Ms. Peoples was doing. As he was walking down the  
12 hall, he noticed that there was a shotgun in the  
13 hallway. Mr. Pernell indicated that he picked up the  
14 shotgun due to the fact that he did not want the gun  
15 behind him.

16 Mr. Pernell stated that he then went into the  
17 bedroom and saw a female with a firearm. Mr. Pernell  
18 indicated that he started backing up at which time the  
19 female fired a shot at him.

20 Mr. Pernell indicated that he didn't know how his  
21 arm had gotten shot, but that he had realized that he  
22 was shot, fell to the ground with a shotgun in his  
23 right hand. Mr. Pernell stated that he didn't fire  
24 the gun at the female and never pointed the gun at  
25 her. Indicated that he fell to the ground and that

CONNER - DIRECT

333

1 the gun may have gone off, however, that it was  
2 pointed in an upward position or upright position.

3 Mr. Pernell indicated that he picked himself up  
4 and ran out of the residence.

5 Q Now, without getting into any additional --

6 MS. NORMAN: Nothing further on that point.

7 Q Finally, as a part of your investigation, did you  
8 receive -- well, let me ask you to take a look at  
9 Government's Exhibit 48. Do you have that in front of  
10 you?

11 A Yes.

12 Q Through your work as the lead investigator, did  
13 you receive Government's Exhibit 48?

14 A I did. I responded to MCV Hospital and was given  
15 this item by a forensic nurse at the hospital. It was  
16 turned over to our property unit and eventually made  
17 its way to the Virginia Department of Forensic  
18 Science.

19 Q Is that item, Government's Exhibit 48, was that  
20 the bullet that was removed from Mr. Pernell's arm?

21 A It is.

22 MS. NORMAN: Your Honor, at this time we  
23 would ask to admit Government's Exhibit 48.

24 MR. COLLINS: Without objection.

25 THE COURT: It's admitted.

CONNER - DIRECT

334

1 (Government's Exhibit No. 48 is admitted into  
2 evidence.)

3 BY MS. NORMAN:

4 Q Now, when you went to Lockett Ridge, did you  
5 actually go through house?

6 A I did.

7 Q Based then on what Mr. Pernell told you at the  
8 hospital on May 20, 2009, when you went through the  
9 house five days earlier on May 15, did you note that  
10 there was evidence of discharge of a shotgun inside of  
11 that house?

12 A There appeared to be a shotgun wad as well as  
13 pellets from a shotgun in the floor of the main master  
14 bedroom, which was that back bedroom that Keona  
15 Peoples was located at, and the area in which she  
16 indicated she had confronted Mr. Pernell with her  
17 firearm.

18 Q And Mr. Pernell said in his statement to you that  
19 he had fell to the ground and that the gun might have  
20 gone off, but it was pointed in an upright position?

21 A Correct.

22 Q So did he explain what he meant by "upright"?

23 A My understanding of upright is the barrel would be  
24 towards the ceiling in an upright position, not  
25 pointed down at the ground.



CONNER - DIRECT

335

1 Q Was there any indication that there was any  
2 shotgun shell, shot, or anything in the ceiling of  
3 that room?

4 A Not that I recall. Not that was documented.

5 Q As a police officer, have you ever shot a shotgun?

6 A I have.

7 Q Are you right handed or left handed?

8 A Right-handed.

9 Q So can you show the jury, please, if you were  
10 holding a shotgun, what position your arms would be  
11 in?

12 A Sure. Your left hand would be towards the front  
13 of the barrel and your right hand would be down where  
14 the trigger is and holding it upright at your shoulder  
15 in order to fire it. Your arm and hand at an angle.

16 Q So for a right-handed shooter, then typically,  
17 with a shotgun, your left hand would be extended in  
18 front of you?

19 A Correct.

20 Q With your forearm --

21 A Somewhat bent.

22 Q Bent at the elbow with your forearm facing out?

23 A Correct, yes.

24 Q Okay. Going back again to something that Mr.  
25 Pernell told you, he said that -- did he say that he

CONNER - DIRECT

336

1 went with someone else to the house?

2 A He did. He stated that he went with a friend to  
3 cover his back.

4 Q To cover his friend's back?

5 A Correct.

6 Q And he also indicated that he was going to go  
7 straighten somebody out?

8 A He stated that they were going to straighten out  
9 Anwan because he had some messed up money and product.

10 Q Now, did he actually call Anwan "Anwan"?

11 A I don't recall. I have it written in the report,  
12 but I don't recall.

13 Q But not in quotes?

14 A Yeah.

15 Q Did he indicate to you what he meant by "messed up  
16 money and messed up product"? Did Mr. Pernell specify  
17 that?

18 A At this point in time I don't believe I knew  
19 what --

20 Q But --

21 A I guess I assumed what he had meant, but there was  
22 no explanation.

23 THE COURT: Wait a minute. One at a time.

24 A There was no explanation of it.

25 Q And he also said that -- but did he indicate any

CONNER - DIRECT

337

1 further to you what he meant by what his friend was  
2 going to do?

3 A He did not.

4 Q He said he was just going to go over and take care  
5 of it?

6 A Correct.

7 Q But didn't give any further explanation?

8 A No.

9 Q Okay. Did Mr. Pernell tell you that he had gone  
10 to the residence with the firearm?

11 A He did not indicate that he had shown up there  
12 with a firearm.

13 Q And then where did he explain to you that he got  
14 the shotgun from then?

15 A He stated that the shotgun was in the hallway of  
16 the house, and as he was walking towards the back  
17 bedroom to where Ms. Peoples was located, that he  
18 noticed it. He picked it up and carried it with him  
19 because he didn't want it behind him.

20 Q Okay. And you've been in the house?

21 A I have.

22 Q Is there only one hallway to the bedroom?

23 A There is.

24 Q So anybody going back to the bedroom has to go  
25 through that hallway if they're inside the house?

CONNER - DIRECT

338

1 A Correct.

2 MS. NORMAN: We have nothing further of this  
3 witness, Your Honor.

4

5 CROSS-EXAMINATION

6 BY MR. COLLINS:

7 Q Good afternoon, detective.

8 A Good afternoon, sir.

9 Q All right. So for all you know you could have  
10 given him the name "Anwan" and that's how it got in  
11 your report?

12 A He might have said "he." I don't recall him ever  
13 saying "Anwan" at this particular time.

14 Q So I've straightened you out about that, correct?

15 A I mean, it's not routine that I give individuals  
16 I'm interrogating the victim's name. So I would not  
17 have provided that to him, but I don't recall if he  
18 used "Anwan" or if he just said "he."

19 Q All right. Thank you.

20 Now, if I'm carrying a shotgun just in my right  
21 hand, might I not carry it pointed down to the ground?

22 A Sure.

23 Q And if I see somebody that's about to shoot at me  
24 or is shooting at me, might I not go like that?

25 A Sure.

CONNER - CROSS

339

1 Q You said he didn't shoot at anyone, correct?

2 A I believe that was his statement, yes, sir.

3 Q Is it your understanding that Keona Peoples was  
4 shooting, at least most of the time, from the closet?

5 A That is my understanding from what she told me,  
6 yes, sir.

7 Q Was there any indication that a shotgun was ever  
8 shot in the direction of the closet?

9 A No, the closet is to the right of the bedroom.

10 Q The only indication of a shotgun being shot is on  
11 the floor about three feet from the entrance into the  
12 bedroom, correct?

13 A Yes, sir.

14 Q Now, when you spoke to Anwan, do you remember what  
15 time in the morning it was?

16 A This would have been the wee hours of the morning,  
17 three, four, five, somewhere around in there. I don't  
18 know the exact time.

19 Q What was his demeanor?

20 A He was somewhat, in my experience, uncooperative.

21 Q Would you call him hysterical?

22 A No.

23 Q Relatively calm?

24 A Yeah.

25 Q You felt he was not forthcoming with information;

CONNER - CROSS

340

1 isn't that correct?

2 A That's correct.

3 Q What did he initially tell you about the gun that  
4 it turns out Keona Peoples had? He denied knowing  
5 about it, didn't he?

6 MS. NORMAN: Objection to the form of the  
7 question, Your Honor, just because we need some time  
8 frame of when. I think there were multiple times that  
9 he spoke --

10 BY MR. COLLINS:

11 Q I'm still talking about this first interview, the  
12 taped interview. It's on page 87 of your incident  
13 report.

14 A Page 87?

15 Q Uh-huh. Middle of the page.

16 A I don't have a page 87. I guess yours is a little  
17 different than mine.

18 Q It's actually the second page of your narrative of  
19 the incident report.

20 A Yes. I'm looking at it now. I have it in my  
21 report that --

22 THE COURT: Wait a minute. Can you give him  
23 the paragraph in which it begins? Give him the  
24 opening sentence in that paragraph.

25 Q Well, it's a large paragraph. It starts with "I

CONNER - CROSS

341

1 next spoke with," and then mine is blacked out.

2 MS. NORMAN: Your Honor, it's page 25 of the  
3 police report.

4 THE COURT: Does that help you?

5 THE WITNESS: Yes, sir, I have found what I  
6 believe --

7 THE COURT: All right. He's found it.

8 A Mr. Jones stated at first or he denied knowing  
9 anything about the gun. After speaking with him for  
10 several more minutes, Mr. Jones indicated that he  
11 didn't want to get in trouble and asked if he was  
12 going to jail.

13 Q At that point you went and talked to the  
14 commonwealth's attorney and got him immunity from a  
15 charge of having a firearm by a convicted felon, did  
16 you not?

17 A That's correct.

18 Q Was he then honest and forthcoming with you?

19 A Jones then gave me information that indicated that  
20 Ms. Peoples had given him the --

21 THE COURT: That isn't the question. The  
22 question is: Was he forthcoming?

23 MR. COLLINS: That was my next question,  
24 Judge.

25 THE COURT: Well, I don't know, but --

CONNER - CROSS

342

1 MS. NORMAN: I would object to the form of  
2 the question just because honest and forthcoming may  
3 be two different things.

4 THE COURT: All right. So --

5 MR. COLLINS: I'll retract that question.

6 Q Who did he then tell you the gun belonged to?

7 A Mr. Jones then indicated that Ms. Peoples had  
8 given him the gun as a gift. He then later stated  
9 again that it was Peoples' gun and that it was over at  
10 his residence due to the fact that she had been  
11 staying there a lot.

12 Q So in the one brief interview, you got three  
13 different stories about that gun, correct?

14 A Yes, sir.

15 Q And he's not allowed to have a gun because he's a  
16 convicted felon, right?

17 A That's correct.

18 Q What did he tell you about whether or not he had a  
19 shotgun?

20 A I don't remember talking to him about a shotgun  
21 specifically.

22 Q He wouldn't be allowed to have a shotgun either,  
23 would he?

24 A No, sir.

25 Q What did he tell you, what kind of weapons did he



CONNER - CROSS

343

1 tell you the two assailants had?

2 THE COURT: Ladies and gentlemen, just so you  
3 understand, this testimony is admitted for the purpose  
4 of testing the validity of Mr. Jones's testimony. It  
5 can't be considered for whether it's true or not. It  
6 can be considered for whether Mr. Jones was telling  
7 the truth when he said what he said earlier. Do you  
8 understand?

9 THE JURY: Yes.

10 A Mr. Jones indicated that one of the males had a  
11 shotgun; however, he was unable to tell me what the  
12 other suspect had.

13 Q So he didn't tell you the other suspect had a long  
14 gun of some sort?

15 A That's not in my notes and I don't recall him --

16 Q The bullet that was found outside of the house,  
17 what kind was that?

18 A I believe that was a .45 caliber.

19 Q So that would not have been from the long gun,  
20 would it?

21 A My knowledge of guns, no, sir.

22 Q It would have been from a .45-caliber pistol most  
23 likely?

24 A Yes, sir.

25 Q Did Mr. Jones allow you to search his house?

CONNER - CROSS

344

1 A He did not.

2 Q So that's why you had to get a search warrant?

3 A That's correct.

4 Q Did Mr. Jones mention anything about anybody  
5 saying "You know what it is"?

6 A Not that I recall.

7 Q Was this the only time you ever talked with him?

8 A This was the interview that I had with him. I did  
9 sit in on some other interviews.

10 Q With him?

11 A With him with other detectives, but I don't have  
12 any notes.

13 Q Did you ever hear him say those words?

14 A No, sir.

15 Q What sort of time period did those various  
16 interviews cover?

17 A This particular interview that we're referring to  
18 now was --

19 Q No, I'm sorry. My bad.

20 All of the various interviews that you had, was it  
21 over a period of weeks?

22 A Several months.

23 Q Several months?

24 A Yes.

25 Q Is it correct that he said he didn't know the

CONNER - CROSS

345

1 suspects, but one might have been involved in the  
2 cutting of Taj, Taj Gregory?

3 A That's correct.

4 Q Mr. Pernell, as a result of this incident, was  
5 charged in Chesterfield County, was he not?

6 A He was.

7 Q What happened to those charges?

8 MS. NORMAN: Objection. Relevance, Your  
9 Honor.

10 THE COURT: Sustained.

11 BY MR. COLLINS:

12 Q Were there also some inconsistencies in what Ms.  
13 Peoples told you about the gun?

14 A I believe that she indicated that it was Anwan's  
15 firearm.

16 Q Initially, correct?

17 A She said it was her boyfriend's gun and that she  
18 saw it approximately a week and a half.

19 THE COURT: But the question is: Do you  
20 remember whether she was inconsistent during your  
21 interview with her of what she said about the  
22 ownership of the gun? Do you remember that: Yes or  
23 no?

24 THE WITNESS: I don't see anything in my  
25 notes and I don't recall.

CONNER - CROSS

346

1 Q Well, turn two pages.

2 THE COURT: See if that will help refresh  
3 your memory. Read that to yourself.

4 Q And the paragraph starts "I next interviewed."

5 THE COURT: Read that and see if it helps  
6 refresh your memory of whether she gave inconsistent  
7 statements to you about the ownership of the gun.

8 THE WITNESS: Yes.

9 Q What did she tell you the second time?

10 A Peoples stated that the gun was hers, and that she  
11 leaves the gun at Jones's house, and that Jones has  
12 seen the gun and has also picked up the gun.

13 Q Why did she say she had gotten the gun?

14 A A friend gave it to her for protection.

15 Q Did you ask her what she would need protection  
16 from?

17 A No.

18 Q And she didn't volunteer that, of course?

19 A No.

20 MR. COLLINS: That's all I have, Judge.

21 Thank you.

22

23 REDIRECT EXAMINATION

24 BY MS. NORMAN:

25 Q Anwan Jones told you different variations of

CONNER - REDIRECT

347

1 whether he owned the gun or knew about the gun that  
2 Keona Peoples used in his house; is that correct?

3 A That's correct.

4 Q Did Anwan Jones ever deny that the gun was in the  
5 house, that pistol was in the house?

6 A No, ma'am.

7 Q I mean, he may have said it wasn't his, but he  
8 never denied --

9 MR. COLLINS: Object to the leading, Judge.

10 THE COURT: Yes.

11 Q Did Keona Peoples ever say that she didn't have  
12 that gun?

13 A No, ma'am.

14 Q So her inconsistencies about the gun was whether  
15 it belonged to her or it belonged to Anwan?

16 A Correct.

17 Q But neither party ever denied that it existed?

18 A Correct.

19 Q Now, Keona Peoples, was she a convicted felon at  
20 the time?

21 A Not that I recall, no, ma'am.

22 Q So she wouldn't have been prohibited from  
23 possessing the firearm as a convicted felon?

24 A No, ma'am.

25 Q But Anwan Jones was a convicted felon?

CONNER - REDIRECT

348

1 A To my recollection, yes, ma'am.

2 Q So if he admitted to you it was his gun, he would  
3 be admitting that he committed a crime leading up to  
4 or prior to this incident?

5 A Yes, ma'am.

6 Q And Mr. Collins asked you about Anwan Jones  
7 refused to allow y'all to go back into the house to  
8 search; is that correct?

9 A That's correct.

10 Q What procedure did you take to be able to get back  
11 into the house?

12 A A search warrant was obtained in order to collect  
13 the evidence that we needed to collect for the crime.

14 Q And a search warrant was obtained based on the  
15 crime of the shooting; is that correct?

16 A That's correct.

17 Q Was a second search warrant also obtained?

18 A That is correct.

19 Q What was the purpose of that search warrant?

20 A While executing the first search warrant, what was  
21 found to be drugs or which was believed to be drugs  
22 was found and a second search warrant was obtained for  
23 the drugs.

24 Q And any other evidence of drug trafficking?

25 A Yes, ma'am.

CONNER - REDIRECT

349

1 Q So if Anwan Jones had said yes, you can search the  
2 house -- you searched it with the search warrant and  
3 found the drugs. If he had said yes, you can search  
4 the house, wouldn't that be evidence of a crime he  
5 committed, the drugs and the money?

6 A Yes, ma'am.

7 Q So allowing you consent would be saying, Go ahead  
8 and get evidence of a crime I committed?

9 A Yes, ma'am.

10 Q At any point in talking to you about what happened  
11 that night about the specifics of what the two men  
12 allegedly did, did Anwan Jones give you any  
13 inconsistent statements about what the two men who  
14 came to his house actually did?

15 A No, ma'am.

16 Q And did Keona Peoples ever in the times you spoke  
17 with her, ever give you inconsistent statements about  
18 what the two men who came to the house did?

19 A No, ma'am.

20 Q Now, Mr. Jones told you he did not know the two  
21 men that came to his house; is that correct?

22 A That is correct.

23 Q Has he ever changed that to you? Has he ever told  
24 you anything inconsistent with that?

25 A Not to me, no, ma'am.

CONNER - REDIRECT

350

1 Q When he offered that one of the suspects may have  
2 been involved in cutting Taj, was he stating that as a  
3 fact or was he just providing some possible leads for  
4 you?

5 A Oftentimes victims are asked for anybody that  
6 they've had a problem or an issue with that can give  
7 us a direction to go in and his response would have  
8 been to that type of questioning.

9 Q So it wasn't that he just volunteered that, he was  
10 questioned who might have done this?

11 A Yes, ma'am.

12 Q Okay. Now, finally, I want to turn to what was  
13 marked and admitted as Government's Exhibit 768A-50,  
14 and it's a photograph. I think my batteries have worn  
15 out.

16 THE COURT: I'm sure they're exhausted. What  
17 size are they?

18 MS. NORMAN: Possibly not large enough, Your  
19 Honor.

20 THE COURT: I was going to try to offer you  
21 some more, but now I've rethought it.

22 MS. NORMAN: Yes, that's probably not wise.

23 THE COURT: Mr. Collins seemed to be  
24 objecting.

25 BY MS. NORMAN:



CONNER - REDIRECT

351

1 Q If you look at what has been admitted as  
2 Government's Exhibit 768A-50, do you recognize  
3 entryway into the bedroom?

4 A That appears to be the back bedroom on the first  
5 floor that was the master bedroom that I believe  
6 belonged to Anwan Jones, and Keona Peoples stayed  
7 there.

8 Q And they have seen at the picture over and over  
9 again, but the significance that I want to ask you  
10 about here is there are two door knobs to your right?

11 A Correct.

12 Q And the door knob that is the farthest to the  
13 right, which seems to be the closest to the person  
14 taking the picture, that's to the door to the bedroom  
15 itself, correct?

16 A Correct.

17 Q And the door right behind it is the door to the  
18 closet you were describing?

19 A Correct.

20 Q I think your testimony on cross was the closet  
21 sort of behind the entryway as you come in.

22 A As soon as you come in, if you look immediately to  
23 the right, there's the closet. There's probably maybe  
24 16, 18 inches of actual wall from this side of the  
25 room to the closet.

CONNER - REDIRECT

352

1 Q But when that door is opened, such as depicted in  
2 this picture, and you look in, the person standing  
3 when they took this picture, you can't see what's  
4 behind that open closet door, can you?

5 A No, ma'am.

6 Q And when we look at this picture and we enlarge  
7 the section of -- I'm sorry. Slightly over from  
8 there. That's the area of the shotgun wad underneath  
9 cover rug; is that correct?

10 A From what I remember, yes, ma'am.

11 Q So we'll back back out of the picture. As you're  
12 looking from the perspective of the picture and you  
13 look from the person standing in the doorway, the  
14 shotgun wad is that roughed up spot of the carpet  
15 right there?

16 A Yes, ma'am.

17 Q With the closet door open, you can't see who's to  
18 your right?

19 A Correct.

20 Q Or what if anything is there?

21 A Correct.

22 MS. NORMAN: We have no further questions,  
23 Your Honor.

24 MR. COLLINS: Nothing else?

25 THE COURT: Can he be excused?

CONNER - REDIRECT

353

1 MS. NORMAN: Yes, Your Honor.

2 THE COURT: Thank you for being with us,  
3 Detective Conner. You're excused.

4 THE WITNESS: Thank you.

5 (The witness was excused from the witness  
6 stand.)

7 MS. NORMAN: We do have one housekeeping  
8 issue with regard to the forensics and Detective  
9 Conner, so we would ask that he just stay until we  
10 close the case.

11 THE COURT: You're not excused. Sorry. I  
12 was wrong.

13 MS. NORMAN: It just has to do with the  
14 firearm. We can't leave it here, but they'll need to  
15 take it back and return it tomorrow.

16 (The witness was excused from the witness  
17 stand.)

18 MS. NORMAN: Your Honor, finally, the  
19 government also would present the stipulation of the  
20 parties. It is a stipulation of facts, and it's  
21 marked for identification as Government's Exhibit 49.

22 THE COURT: Ladies and gentlemen, you're  
23 going to have read to you what's called a stipulation  
24 of fact. That means that the lawyers and the parties  
25 have agreed that certain things have been established

1 as facts. They agree to that. So there won't be any  
2 testimony to prove those things.

3 You can accept what's in the stipulation as  
4 having been proved as a factual matter if you so  
5 choose, and she will now read it to you. You'll have  
6 a copy of it when you get back because it will help  
7 you understand the evidence in the case.

8 MS. NORMAN: Thank you, Your Honor.

9 THE COURT: "When you get back" meaning when  
10 you're in deliberations.

11 MS. NORMAN: The stipulation of facts reads  
12 as follows:

13 Comes now the United States of America by  
14 Neal H. McBride, United States Attorney, and Olivia L.  
15 Norman, Assistant United States Attorney, for the  
16 Eastern District of Virginia and the defendant, Robert  
17 Lee Pernell, by his attorney, Christopher J. Collins,  
18 and stipulate as follows:

19 (1) Chesterfield County, Virginia, is  
20 located in the Eastern District of Virginia.

21 (2) Robert Lee Pernell was shot in the arm  
22 on May 15, 2009, and treated at Southside Regional  
23 Medical Center in Petersburg Virginia.

24 (3) On May 15, 2009, law enforcement  
25 recovered Robert Lee Pernell's blood, which are

1 Government's Exhibits 24 and 25, from inside the  
2 residence located at 1453 Lockett Ridge Road,  
3 Chesterfield, Virginia, as determined by DNA analysis.  
4 Government's Exhibit 2 is admissible and is proof that  
5 Government's Exhibits 24 and 25 were Robert Lee  
6 Pernell's blood.

7 On May 15, 2009, law enforcement recovered  
8 eight cartridge cases, which are Government's Exhibits  
9 8, 13, 14, 15, 17, 20, 26 and 28, and a pistol, which  
10 is Government's Exhibit 12, from inside the residence  
11 and outside the front door of the residence of 1453  
12 Lockett Ridge Road, Chesterfield, Virginia.

13 Government's Exhibit 3 is admissible and is  
14 proof that Government's Exhibits 8, 13, 14, 15, 17, 20  
15 and 26 were fired in the pistol marked Government's  
16 Exhibit 12.

17 And Government's Exhibit 28, which was a  
18 Winchester brand caliber .45 auto cartridge case, was  
19 not fired in the pistol marked Government's Exhibit  
20 12.

21 (4) Government's Exhibit 4 is admissible and  
22 is proof that the pistol and cartridge cases recovered  
23 from 1453 Lockett Ridge Road, Chesterfield, Virginia,  
24 on May 15, 2009, were analyzed for fingerprints, but  
25 no prints of value were present or developed.

1           (5) On April 18, 2009, Robert Lee Pernell  
2 discharged his firearm in the city of Richmond. Among  
3 the items recovered by police following that discharge  
4 were six .45-caliber cartridge cases listed in  
5 Government's Exhibit 5 collectively as item 5.

6           Government's Exhibits 5 and 6 are admissible  
7 and are proof that the six .45-caliber cartridge  
8 cases, collectively referred to in Government's  
9 Exhibit 5 as item 5, were each a Winchester caliber  
10 .45 auto cartridge case, all fired in the same  
11 firearm, and fired in the same firearm that fired the  
12 cartridge case marked Government's Exhibit 28, which  
13 is listed in Government's Exhibits 3 and 6 as item 28.

14           (6) Government's Exhibit 30 is admissible  
15 and is proof that primer residue was found on the  
16 hands of Keona Peoples and Anwan Jones on May 15,  
17 2009.

18           Government's Exhibit 7 is admissible and is  
19 proof that primer residue was found on the hands of  
20 Robert Lee Pernell who had provided the name Frank  
21 Williams at the time the shotgun residue kit was taken  
22 on May 15, 2009.

23           Primer residue can be deposited on the hands  
24 by circumstances such as firing a weapon, handling a  
25 weapon, being in the proximity to the charge of a

1 weapon, or coming into contact with an object that has  
2 primer residue on it.

3 The examinations documented in Government's  
4 Exhibits 7 and 30 themselves cannot determine the  
5 relative likelihood of these listed circumstances.

6 On May 15, 2009, law enforcement recovered  
7 approximately 116 grams of cocaine base, commonly  
8 known as crack, and \$125,805 in United States currency  
9 from the residence located at 1453 Lockett Ridge Road,  
10 Chesterfield, Virginia.

11 Cocaine is not manufactured in the  
12 Commonwealth of Virginia.

13 And it is signed by me, Olivia L. Norman, and  
14 by Christopher J. Collins on behalf of our clients.

15 THE COURT: That's admitted as Government's  
16 Exhibit 49.

17 (Government's Exhibit No. 49 is admitted into  
18 evidence.)

19 MS. NORMAN: And, Your Honor, if I may have  
20 one brief moment, I want to ensure we have admitted  
21 all of our presented exhibits.

22 THE COURT: All right.

23 MS. NORMAN: Your Honor, my records indicate  
24 that the government has moved to admit and the  
25 following exhibits have been admitted. I want to

1 ensure that's correct before we rest.

2 Government's Exhibits 1 through 15.

3 THE CLERK: I have seven pages to look at.

4 MS. NORMAN: I'm going to try to go in order.

5 THE CLERK: I don't have 14. Do you have 14  
6 in?

7 MS. NORMAN: Item 14 was a cartridge case.

8 THE CLERK: That is in. That's correct. All  
9 right. They're in.

10 MS. NORMAN: Item 17, which is another  
11 cartridge case.

12 THE CLERK: It's in.

13 MS. NORMAN: Items 19, 20 and 21.

14 THE CLERK: In.

15 MS. NORMAN: Items 23, 24, 25 and 26.

16 THE CLERK: 23 and 24 are in. 25 and 26, you  
17 say?

18 MS. NORMAN: Yes, sir, which was another  
19 cartridge case.

20 THE CLERK: It's in.

21 MS. NORMAN: Item 28.

22 THE CLERK: In.

23 MS. NORMAN: Item 30, a certificate of  
24 analysis.

25 THE CLERK: I'm looking.



1 THE COURT: They came in through Conner?

2 MS. NORMAN: Yes, sir.

3 THE CLERK: In.

4 MS. NORMAN: Government's Exhibits 31 and 32.

5 THE CLERK: Both in.

6 MS. NORMAN: Government's Exhibits 37 through  
7 44, which were the clothing items.

8 THE COURT: They came in through Clayton?

9 MS. NORMAN: Yes, sir.

10 THE CLERK: They're in.

11 MS. NORMAN: Item No. 45, which came in  
12 through Investigator Simmons, Exhibit 45.

13 THE CLERK: In.

14 MS. NORMAN: Exhibits 46A through D.

15 THE CLERK: Correct, they're in.

16 MS. NORMAN: Government's Exhibit 48 was  
17 presented, 48, 49, 50, 51 and 52.

18 THE COURT: So was the inventory, 47.

19 MS. NORMAN: Yes. And 47 also.

20 THE CLERK: Give me those numbers again.

21 MS. NORMAN: Item 47 was the first one. It  
22 was the inventory through Corporal Reed.

23 THE COURT: 47 through 52.

24 MS. NORMAN: Through 52.

25 THE CLERK: Yes. Yes, they're in.

1 MS. NORMAN: And then without objection the  
2 photographs that are specifically listed in the  
3 Government's proposed exhibit list.

4 THE COURT: All of the photographs?

5 MS. NORMAN: Yes.

6 THE COURT: Which run for the next --

7 MS. NORMAN: Three or four pages.

8 THE COURT: Several pages. There have been  
9 no objections to those and they are all in.

10 MS. NORMAN: Yes, sir. With that, the United  
11 States rests, Your Honor.

12 THE COURT: All right.

13 MR. COLLINS: I'd have a motion, Judge.

14 THE COURT: Do you want to reserve it?

15 MR. COLLINS: No, sir. I'd like to make it  
16 now if I might.

17 THE COURT: All right. Come on up.

18 MR. COLLINS: Do we need to do it outside the  
19 presence of the jury?

20 THE COURT: I was going to do it with the  
21 white noise. They can go home, I guess, can't they,  
22 because it's four o'clock and we've got things to do.  
23 We can do it that way.

24 MR. COLLINS: That's fine.

25 THE COURT: All right.

1 Ladies and gentlemen, the evidence looks like  
2 it's finished in the case. There's a motion that I  
3 need to take up. By the time I do that and consider  
4 instructions, you-all can go on home and come back and  
5 be here at 9:30 in the morning.

6 In the morning at 9:30, you'll hear the  
7 closing arguments of the lawyers, the instructions and  
8 then deliberate the case. So remember my admonitions  
9 not to discuss the matter with anyone. And if you  
10 will leave your notepads.

11 What do you do? Have them leave them in  
12 there and lock them up?

13 THE CLERK: Yes, sir.

14 THE COURT: All right. Leave them in there  
15 with your names on them, and Mr. Neal will lock them  
16 up and give them back to you in the morning.

17 Okay. Drive carefully and we'll see you in  
18 the morning at 9:30.

19 (The jury is leaving the courtroom at 3:50  
20 p.m. to return in the morning at 9:30 a.m.)

21 THE COURT: All right, Mr. Collins.

22 MR. COLLINS: Side bar or here?

23 THE COURT: No, you can stand there now. I  
24 was going to do it here because the jury was going to  
25 be here, but they're gone. There's no need to worry

1 about that.

2 MR. COLLINS: Judge, I'm going to move for a  
3 judgment of acquittal on two grounds.

4 Had Mr. Pernell robbed Taj Gregory, I think  
5 we would have a nexus between his conduct and  
6 interstate commerce as is required in these cases. I  
7 don't see that there's any evidence of such a nexus in  
8 the cases in which he's charged. There's not even an  
9 indication, A, that he knows Anwan Jones or, B, that  
10 he knows what Anwan Jones is doing.

11 There's absolutely not an iota of evidence  
12 that they were going to rob these individuals. So I  
13 think the nexus hasn't been made.

14 And then, secondly, I think the jury could  
15 only convict on pure conjecture. There's no evidence  
16 upon which a reasonable juror could find beyond a  
17 reasonable doubt that the intent of these individuals  
18 was to rob anybody. I think if the evidence points at  
19 anything, it might point at an attempt to harm them,  
20 but there's certainly no evidence of an attempt  
21 robbery.

22 MS. NORMAN: First, with regard to the issue  
23 of interstate commerce, as the law states, the  
24 defendant does not have to intend to affect interstate  
25 commerce. It is sufficient just that the crime would

1 have an impact on or would affect interstate commerce,  
2 No. 1.

3 Number 2, that impact only need be de minimis  
4 at best. The facts in this case presented by both Taj  
5 Gregory and Anwan Jones was that they were in business  
6 together and had been in business for some period of  
7 time. And the fact that Mr. Pernell knew at least one  
8 of them, Taj Gregory, was involved in drug  
9 trafficking, and the fact that Mr. Pernell himself  
10 was, albeit in a much smaller level, involved in  
11 purchasing small amounts of crack cocaine, shows that  
12 he had knowledge that crack cocaine was something, a  
13 commodity, if you will. It was something that was  
14 traded in commerce.

15 In any event, in Mr. Pernell's own statement,  
16 you're listening to what he told the detective, he was  
17 going over to back his friend up to straighten out  
18 Anwan because he had messed up product and messed up  
19 money. So that shows an impact.

20 Now, Mr. Pernell may have not realized the  
21 legal implication of interstate commerce, but he  
22 doesn't have to. That's not the element of the  
23 offense. The evidence very clearly supports a  
24 finding, and frankly would support a finding of beyond  
25 a reasonable doubt, on the element of interstate

1 commerce. And so on that basis the motion should be  
2 denied.

3 Now, with regard to the second issue, it  
4 basically comes down to a credibility question,  
5 whether or not the jury believes Anwan Jones and Keona  
6 Peoples, who are the victims of this attempted robbery  
7 and attempted conspiracy to commit robbery, and,  
8 frankly, the firearms. Even by Mr. Pernell's own  
9 statements, there was messed up money and messed up  
10 drugs, and they were going to go straighten it out.  
11 Well, what that means is that he and his buddy are  
12 going to go take what his buddy believes he's entitled  
13 to.

14 THE COURT: You mean that's an inference?

15 MS. NORMAN: It is a proper inference that  
16 they were going to go take what -- they couldn't call  
17 the law and say "he ripped us off, the cocaine was no  
18 good," so they were taking matters into their own  
19 hands.

20 Well, robbery doesn't mean that you don't  
21 feel like you have some personal justification for  
22 robbing someone. Robbery means that you're going to  
23 take something by force. And the facts are that the  
24 two men, one of them being Robert Pernell, went into  
25 the house with weapons, fought their way into the

1 house with weapons, and the reasonable inference from  
2 that at 2 o'clock in the morning is that -- and Mr.  
3 Pernell knowing by his own statement to law  
4 enforcement that Anwan had messed up product and  
5 messed up money is that they had knowledge that he had  
6 product or money, either one available, and that that  
7 was the purpose of going there.

8 And at this point the evidence is viewed in  
9 the light most favorable for the government at this  
10 point. But even if the defense had rested, there is  
11 certainly more than sufficient evidence for a  
12 reasonable trier of fact to find the necessary  
13 elements of robbery, or attempted robbery rather, and  
14 of conspiracy to commit robbery, and the carrying of  
15 firearms in the commission of those offenses.

16 So we would ask that the motion be denied.

17 MR. COLLINS: Judge, I really don't think we  
18 can mingle Taj Gregory and Anwan Jones. There's no  
19 connection between the two of them that Mr. Pernell  
20 was aware of as far as the evidence that's come out in  
21 this case.

22 So he had messed up product and money. What  
23 is product? Product doesn't have to be cocaine.  
24 Product can be methamphetamine made in southwest  
25 Virginia. Product can be marijuana made all over

1 Virginia. I know the nexus doesn't have to be much,  
2 but there has to be some. And there's got to be some  
3 evidence that whatever he intended to do was going to  
4 interfere with that.

5 If they went over to have it out with Anwan  
6 Jones, beat the tar out of him, maybe even shoot him  
7 because he was cheating people, that would not affect  
8 interstate commerce unless the government would say  
9 putting him out of business would affect commerce. I  
10 don't think that's the law. I just don't think the  
11 evidence is there.

12 THE COURT: Well, it looks to me like the  
13 controlling case here is United States against  
14 Williams. If it weren't for the breadth of the  
15 *Williams* decision, there might be some difficulty with  
16 the proofs, but the evidence is sufficient to show  
17 that the defendant knew that Gregory was a drug  
18 dealer.

19 It's a reasonable inference to draw that he  
20 knew that Jones was a drug dealer because he was going  
21 over to straighten out both money and product, and the  
22 testimony is that product means drugs. It may not  
23 have meant it to him, but that's a credibility fact  
24 issue to be decided.

25 And his own statements, I think, together



1 with the other evidence in the case would permit a  
2 jury to find beyond a reasonable doubt that he was  
3 interfering with interstate commerce by intending to  
4 deprive the owner of assets that were used in the drug  
5 dealing trade. And that's the import and meaning of  
6 *Williams*. And it seems to me that the government's  
7 evidence is satisfied.

8 As to the intent to rob, it is permissible to  
9 infer that they had guns, that they went there to  
10 straighten out a problem with money and product, and  
11 there's a reasonable inference that that means take  
12 money and satisfy or rectify the money problem by  
13 taking the money. And that's permissible. And the  
14 government gets all the inferences at this stage of  
15 the proceedings, and a reasonable jury could find  
16 beyond a reasonable doubt an intent to rob. So the  
17 motion under Rule 29 is denied.

18 MR. COLLINS: Thank you. Note our exception,  
19 please.

20 THE COURT: All right.

21 You've got the instructions. Let's go over  
22 them and get them ready.

23 MS. NORMAN: Your Honor, I may have missed  
24 it, and I was just asking Mr. Collins, but just so our  
25 record is clear that the defense wasn't presenting any

1 evidence. That was my understanding, but I never  
2 heard it on the record.

3 MR. COLLINS: That's correct, Judge.

4 THE COURT: The defense will rest in the  
5 morning and not present evidence.

6 MS. NORMAN: Yes, sir.

7 THE COURT: All right. Let's go over the  
8 instructions. You don't have to stand up, but you do  
9 have to speak up so we can hear you.

10 MS. NORMAN: Your Honor, may all of my kind  
11 people be allowed to leave unless they want to stay?

12 THE COURT: I can't imagine they don't want  
13 to stay and listen to the instructions, but they're  
14 certainly welcome to leave if they would like to.

15 MS. NORMAN: We do have one other slight  
16 issue.

17 THE COURT: Wait a minute. Don't leave if  
18 there's a slight issue.

19 MS. NORMAN: It all has to do with the  
20 firearm. Apparently, the Marshal Service, we can't  
21 keep this firearm here at the facility, I mean at the  
22 courthouse, locked up.

23 THE MARSHAL: I don't believe so.

24 THE CLERK: It's normally given back to the  
25 agents and they take it back with them at night.

1 MS. NORMAN: I'll make arrangements.

2 THE CLERK: I'll take the firearm under the  
3 circumstances.

4 MS. NORMAN: All right. And I apologize.  
5 Agent Spottswood thought he would be back, but  
6 apparently his wife is still --

7 THE CLERK: That's fine. Do you have any  
8 ammunition or just the gun?

9 MS. NORMAN: Just the gun.

10 THE COURT: That's Exhibit 12. Is there any  
11 ammunition in there?

12 MS. NORMAN: No, sir. And it was cleared by  
13 the court security officers before it was allowed in  
14 the courthouse.

15 THE COURT: Well, there's no ammunition  
16 because all of it was fired, right?

17 MS. NORMAN: That's correct.

18 THE COURT: According to your theory.

19 MS. NORMAN: According to the evidence, yes.

20 THE COURT: It held eight rounds, and they  
21 found eight, and one of them was outside, but I  
22 thought the one outside didn't match the striations in  
23 the government's exhibit. So there's one round  
24 missing, right?

25 MS. NORMAN: Not necessarily. Just because

1 it holds eight doesn't mean it had eight. They don't  
2 come preloaded. You have to sit there and load them  
3 yourself. And the last couple are kind of hard.

4 THE CLERK: Often if you're fully loaded, it  
5 ruins the spring.

6 THE COURT: We have a lot of experts here,  
7 but I don't know of any testimony on it.

8 THE CLERK: Mine isn't fully loaded.

9 THE COURT: Okay. So now we've solved the  
10 problem. Mr. Neal is going to take the gun.

11 THE CLERK: May I take it down while you're  
12 doing the jury instructions?

13 THE COURT: I thought you were going to take  
14 it home with you.

15 THE CLERK: Oh, no, sir, I have one.

16 THE COURT: Put it in the safe.

17 THE CLERK: I will.

18 THE COURT: All right. Then the rest of  
19 them, they are excused; is that right?

20 MS. NORMAN: Yes, sir.

21 THE COURT: All right. Well, let's go.

22 \* \* \* \* \*

23 (The proceedings were adjourned at 4:43 p.m.)  
24  
25

1 I, Diane J. Daffron, certify that the  
2 foregoing is a correct transcript from the record of  
3 proceedings in the above-entitled matter.

4 /s/

5 DIANE J. DAFFRON, RPR, CCR

6 DATE

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25